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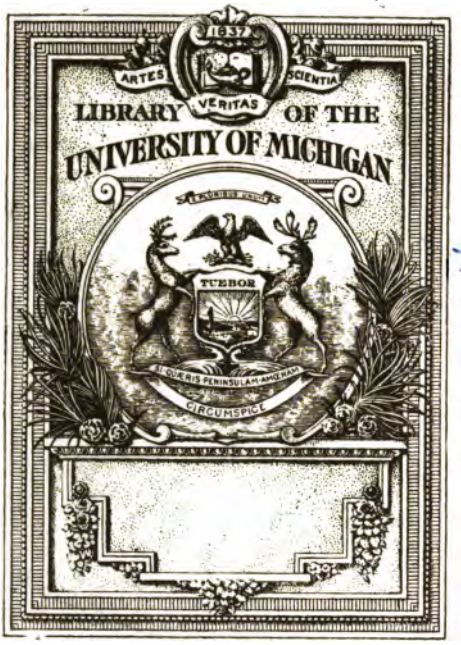

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64TH CONGRESS, 2d Session } HOUSE OF REPRESENTATIVES { DOCUMENT No. 2111

THE PROBLEMS OF NEUTRALITY WHEN THE WORLD IS AT WAR

A HISTORY

OF OUR RELATIONS WITH GERMANY AND GREAT BRITAIN AS DETAILED IN THE DOCUMENTS THAT PASSED BETWEEN THE UNITED STATES AND THE TWO GREAT BELLIGERENT POWERS

BY

S. D. FESS

AUG 13 1917
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(IN TWO PARTS)

PART 1

THE SUBMARINE CONTROVERSY

PRESENTED BY MR. FOSTER

WASHINGTON
GOVERNMENT PRINTING OFFICE
1917

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1917

AMERICAN NEUTRALITY—AN APPEAL BY THE PRESIDENT.

An appeal by the President of the United States to the citizens of the Republic, requesting their assistance in maintaining a state of neutrality during the present European war.

[Presented in the Senate by Mr. Chilton, Aug. 19, 1914, and ordered to be printed.]

MY FELLOW COUNTRYMEN:

I suppose that every thoughtful man in America has asked himself, during these last troubled weeks, what influence the European war may exert upon the United States, and I take the liberty of addressing a few words to you in order to point out that it is entirely within our own choice what its effects upon us will be and to urge very earnestly upon you the sort of speech and conduct which will best safeguard the Nation against distress and disaster.

The effect of the war upon the United States will depend upon what American citizens say and do. Every man who really loves America will act and speak in the true spirit of neutrality, which is the spirit of impartiality and fairness and friendliness to all concerned. The spirit of the Nation in this critical matter will be determined largely by what individuals and society and those gathered in public meetings do and say, upon what newspapers and magazines contain, upon what ministers utter in their pulpits, and men proclaim as their opinions on the street.

The people of the United States are drawn from many nations, and chiefly from the nations now at war. It is natural and inevitable that there should be the utmost variety of sympathy and desire among them with regard to the issues and circumstances of the conflict. Some will wish one nation, others another, to succeed in the momentous struggle. It will be easy to excite passion and difficult to allay it. Those responsible for exciting it will assume a heavy responsibility, responsibility for no less a thing than that the people of the United States, whose love of their country and whose loyalty to its Government should unite them as Americans all, bound in honor and affection to think first of her and her interests, may be divided in camps of hostile opinion, hot against each other, involved in the war itself in impulse and opinion if not in action.

Such divisions among us would be fatal to our peace of mind and might seriously stand in the way of the proper performance of our duty as the one great nation at peace, the one people holding itself ready to play a part of impartial mediation and speak the counsels of peace and accommodation, not as a partisan, but as a friend.

I venture, therefore, my fellow countrymen, to speak a solemn word of warning to you against that deepest, most subtle, most essential breach of neutrality which may spring out of partisanship, out of passionately taking sides. The United States must be neutral in fact as well as in name during these days that are to try men's souls. We must be impartial in thought as well as in action, must put a curb upon our sentiments as well as upon every transaction that might be construed as a preference of one party to the struggle before another.

My thought is of America. I am speaking, I feel sure, the earnest wish and purpose of every thoughtful American that this great country of ours, which is, of course, the first in our thoughts and in our hearts, should show herself in this time of peculiar trial a Nation fit beyond others to exhibit the fine poise of undisturbed judgment, the dignity of self-control, the efficiency of dispassionate action; a Nation that neither sits in judgment upon others nor is disturbed in her own counsels and which keeps herself fit and free to do what is honest and disinterested and truly serviceable for the peace of the world.

Shall we not resolve to put upon ourselves the restraints which will bring to our people the happiness and the great and lasting influence for peace we covet for them?

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THE PROBLEMS OF NEUTRALITY WHEN THE WORLD IS AT WAR, AS TOLD IN DOCUMENTS.

OUR CONTROVERSY WITH GERMANY—THE SUBMARINE ISSUE.

On November 2, 1914, Great Britain declared the North Sea a military area. This is not a blockade. The order follows:

During the last week the Germans have scattered mines indiscriminately in the open sea on the main trade route from America to Liverpool via the north of Ireland.

Peaceful merchant ships have already been blown up, with loss of life, by this agency.

The White Star liner *Olympic* escaped disaster by pure luck, and but for warnings given by British cruisers other British and neutral merchant and passenger vessels would have been destroyed.

These mines can not have been laid by any German ship of war. They have been laid by some merchant vessel flying a neutral flag, which has come along the trade route as if for purpose of peaceful commerce, and, while profiting to the full by the immunity enjoyed by neutral merchant ships, has wantonly and recklessly endangered the lives of all who travel on the sea.

In these circumstances, having regard to the great interests intrusted to the British Navy, to the safety of peaceful commerce on the high seas, and to the maintenance within the limits of international law of trade between neutral countries, the Admiralty feels it necessary to adopt exceptional measures appropriate to the novel conditions under which this war is being waged.

It therefore gives notice that the whole of the North Sea must be considered a military area. Within this area merchant shipping of all kinds, traders of all countries, fishing craft and all other vessels will be exposed to the gravest dangers from mines it has been necessary to lay and from warships searching vigilantly by night and day for suspicious craft.

All merchant and fishing vessels of every description are hereby warned of the dangers they encounter by entering this area, except in strict accordance with Admiralty directions. Every effort will be made to convey this warning to neutral countries and to vessels on the sea, but from November 5 onward the Admiralty announces that all ships passing a line drawn from the northern point of the Hebrides through the Farne Islands to Iceland do so at their own peril.

Ships of all countries wishing to trade to and from Norway, the Baltic, Denmark, and Holland are advised to come, if inward bound, by the English Channel and the Strait of Dover. There they will be given sailing directions which will pass them safely, so far as Great Britain is concerned, up the east coast of England to the Farne

Islands, whence a safe route will, if possible, be given to Lindesnas Lighthouse.

From this point they should turn north or south, according to their destination, keeping as near the coast as possible. The converse applies to vessels outward bound.

By strict adherence to these routes the commerce of all countries will be able to reach its destination in safety so far as Great Britain is concerned, but any straying, even for a few miles from the course thus indicated, may be followed by fatal consequences. (The New York Tribune, Nov. 3, 1914.)

On February 4, 1915, the German Government announced the famous war-zone order placing the British Isles within the danger zone after the 18th of February, 1915. It will be noted this was not a blockade. The order follows:

Since the commencement of the present war Great Britain's conduct of commercial warfare against Germany has been a mockery of all the principles of the law of nations. While the British Government have by several orders declared that their naval forces should be guided by the stipulations of the declaration of London, they have in reality repudiated this declaration in the most essential points, notwithstanding the fact that their own delegates at the maritime conference of London acknowledged its acts as forming part of existing international law. The British Government have placed a number of articles on the contraband list which are not at all, or only very indirectly, capable of use in warfare, and consequently can not be treated as contraband either under the declaration of London or under the generally acknowledged rules of international law. In addition, they have in fact obliterated the distinction between absolute and conditional contraband by confiscating all articles of conditional contraband destined for Germany, whatever may be the port where these articles are to be unloaded, and without regard to whether they are destined for uses of war or peace. They have not even hesitated to violate the declaration of Paris, since their naval forces have captured on neutral ships German property which was not contraband of war. Furthermore, they have gone further than their own orders respecting the declaration of London and caused numerous German subjects capable of bearing arms to be taken from neutral ships and made prisoners of war. Finally, they have declared the North Sea in its whole extent to be the seat of war, thereby rendering difficult and extremely dangerous, if not impossible, all navigation on the high seas between Scotland and Norway, so that they have in a way established a blockade of neutral coasts and ports, which is contrary to the elementary principles of generally accepted international law. Clearly all these measures are part of a plan to strike not only the German military operations but also the economic system of Germany, and in the end to deliver the whole German people to reduction by famine by intercepting legitimate neutral commerce by methods contrary to international law.

The neutral powers have in the main acquiesced in the measures of the British Government; in particular they have not been success-

ful in securing the release by the British Government of the German subjects and German merchandise illegally taken from their vessels. To a certain extent they have even contributed toward the execution of the measures adopted by England in defiance of the principle of freedom of the seas by prohibiting the export and transit of goods destined for peaceable purposes in Germany, thus evidently yielding to pressure by England. The German Government have in vain called the attention of the neutral powers to the fact that Germany must seriously question whether it can any longer adhere to the stipulations of the declaration of London, hitherto strictly observed by it, in case England continues to adhere to its practice and the neutral powers persist in looking with indulgence upon all these violations of neutrality, to the detriment of Germany. Great Britain invokes the vital interests of the British Empire, which are at stake, in justification of its violations of the laws of nations, and the neutral powers appear to be satisfied with theoretical protests, thus actually admitting the vital interests of a belligerent as a sufficient excuse for methods of waging war, of whatever description.

The time has come for Germany also to invoke such vital interests. It therefore finds itself under the necessity, to its regret, of taking military measures against England in retaliation for the practice followed by England. Just as England declared the whole North Sea between Scotland and Norway to be comprised within the seat of war, so does Germany now declare the waters surrounding Great Britain and Ireland, including the whole English Channel, to be comprised within the seat of war and will prevent by all the military means at its disposal all navigation by the enemy in those waters. To this end it will endeavor to destroy, after February 18 next, any merchant vessels of the enemy which present themselves at the seat of war above indicated, although it may not always be possible to avert the dangers which may menace persons and merchandise. Neutral powers are accordingly forewarned not to continue to intrust their crews, passengers, or merchandise to such vessels. Their attention is furthermore called to the fact that it is of urgency to recommend to their own vessels to steer clear of these waters. It is true that the German Navy has received instructions to abstain from all violence against neutral vessels recognizable as such; but, in view of the hazards of war and of the misuse of the neutral flag ordered by the British Government, it will not always be possible to prevent a neutral vessel from becoming the victim of an attack intended to be directed against a vessel of the enemy. It is expressly declared that navigation in the waters north of the Shetland Islands is outside the danger zone, as well as navigation in the eastern part of the North Sea, and in a zone 30 marine miles wide along the Dutch coast.

The German Government announces this measure at a time permitting enemy and neutral ships to make the necessary arrangements to reach the ports situated at the seat of war. They hope that the neutral powers will accord consideration to the vital interests of Germany equally with those of England, and will on their part assist in keeping their subjects and their goods far from the seat of war; the more so since they likewise have a great interest in seeing the termination at an early day of the war now ravaging.

Six days after the announcement of the war-zone order by Germany the President of the United States sent the famous "strict accountability" note, in the following language:

THE SECRETARY OF STATE TO THE AMERICAN AMBASSADOR AT BERLIN.

Please address a note immediately to the Imperial German Government to the following effect:

The Government of the United States, having had its attention directed to the proclamation of the German Admiralty issued on the 4th of February, that the waters surrounding Great Britain and Ireland, including the whole of the English Channel, are to be considered as comprised within the seat of war; that all enemy merchant vessels found in those waters after the 18th instant will be destroyed, although it may not always be possible to save crews and passengers; and that neutral vessels expose themselves to danger within this zone of war because, in view of the misuse of neutral flags said to have been ordered by the British Government on the 31st of January and of the contingencies of maritime warfare, it may not be possible always to exempt neutral vessels from attacks intended to strike enemy ships, feels it to be its duty to call the attention of the Imperial German Government with sincere respect and the most friendly sentiments but very candidly and earnestly, to the very serious possibilities of the course of action apparently contemplated under that proclamation.

The Government of the United States views those possibilities with such grave concern that it feels it to be its privilege, and indeed its duty in the circumstances, to request the Imperial German Government to consider before action is taken the critical situation in respect of the relations between this country and Germany which might arise were the German naval forces in carrying out the policy foreshadowed in the Admiralty's proclamation, to destroy any merchant vessel of the United States or cause the death of American citizens.

It is of course not necessary to remind the German Government that the sole right of a belligerent in dealing with neutral vessels on the high seas is limited to visit and search, unless a blockade is produced and effectively maintained which this Government does not understand to be proposed in this case. To declare or exercise a right to attack and destroy any vessel entering a prescribed area of the high seas without first certainly determining its belligerent nationality and the contraband character of its cargo would be an act so unprecedented in naval warfare that this Government is reluctant to believe that the Imperial Government of Germany in this case contemplates it as possible. The suspicion that enemy ships are using neutral flags improperly can create no just presumption that all ships traversing a prescribed area are subject to the same suspicion. It is to determine exactly such questions that this Government understands the right of visit and search to have been recognized.

This Government has carefully noted the explanatory statement issued by the Imperial German Government at the same time with the proclamation of the German Admiralty, and takes this occasion to remind the Imperial German Government very respectfully that

the Government of the United States is open to none of the criticisms for unneutral action to which the German Government believe the governments of certain other neutral nations have laid themselves open; that the Government of the United States has not consented to or acquiesced in any measures which may have been taken by the other belligerent nations in the present war which operate to restrain neutral trade, but has, on the contrary, taken in all such matters a position which warrants it in holding those Governments responsible in the proper way for any untoward effects upon American shipping which the accepted principles of international law do not justify; and that it therefore regards itself as free in the present instance to take with a clear conscience and upon accepted principles the position indicated in this note.

If the commanders of German vessels of war should act upon the presumption that the flag of the United States was not being used in good faith and should destroy on the high seas an American vessel or the lives of American citizens, it would be difficult for the Government of the United States to view the act in any other light than as an indefensible violation of neutral rights which it would be very hard indeed to reconcile with the friendly relations now so happily subsisting between the two Governments.

If such a deplorable situation should arise, the Imperial German Government can readily appreciate that the Government of the United States would be constrained to hold the Imperial German Government to a strict accountability for such acts of their naval authorities and to take any steps it might be necessary to take to safeguard American lives and property and to secure to American citizens the full enjoyment of their acknowledged rights on the high seas.

The Government of the United States, in view of these considerations, which it urges with the greatest respect and with the sincere purpose of making sure that no misunderstanding may arise and no circumstance occur that might even cloud the intercourse of the two Governments, expresses the confident hope and expectation that the Imperial German Government can and will give assurance that American citizens and their vessels will not be molested by the naval forces of Germany otherwise than by visit and search, though their vessels may be traversing the sea area delimited in the proclamation of the German Admiralty.

It is added for the information of the Imperial Government that representations have been made to His Britannic Majesty's Government in respect to the unwarranted use of the American flag for the protection of British ships.

BRYAN.

On the 15th of February, 1915, Germany addressed this country on the question of foodstuffs:

THE GERMAN AMBASSADOR TO THE SECRETARY OF STATE.

1. The federal council's decision concerning the seizure of food products, which England alleges to be the cause of food products shipped to Germany being treated as contraband, is exclusively on "wheat, rye, both unmixed and mixed with other products," and also "wheat, rye, oats, and barley flour."

2. The federal council makes an express exception in section 45 of the order. Section 45 provides as follows: "The stipulations of this regulation do not apply to grain or flour imported from abroad after January 31."

3. Conjunctively with that saving clause, the federal council's order contains a provision under which imported cereals and flours could be sold exclusively to the municipalities of certain specially designated organizations by the importers. Although that provision had for its object simply to throw imported grain and flour into such channels as supply the private consumption of civilians, and, in consequence of that provision, the intent and purpose of the federal council's order, which was to protect the civilian population from speculators and engrossers, were fully met, it was nevertheless rescinded so as to leave no room for doubt.

4. My Government is amenable to any proposition looking to control by a special American organization under the supervision of the American consular officers, and, if necessary, will itself make a proposition in that direction.

5. The German Government further calls attention to the fact that municipalities do not form part of or belong to the Government, but are "self-administrative bodies," which are elected by the inhabitants of the commune in accordance with fixed rules, and therefore exclusively represent the private part of the population and act as it directs. Although these principles are generally known and obtain in the United States, as well as in England itself, the German Government desired to point out the fact so as to avoid any further unnecessary delay.

6. Hence it is absolutely assured that imported food products will be consumed by the civilian population in Germany exclusively, and there remains no doubt upon which England can prevent the exportation of food products from America to Germany for the use of civilians.

The Imperial Government expresses the firm hope that the American Government will stand on its right in this matter. (The New York Times, Feb. 18, 1915.)

On the same day Germany addressed a second note on three items:

PARAPHRASE OF A NOTE FROM THE GERMAN AMBASSADOR TO THE SECRETARY OF STATE.

According to absolutely reliable information British merchant ships intend to oppose armed resistance to German men-of-war in the area declared as war zone by the German Admiralty.

Some of these ships were already armed with British naval guns. Now all the others are speedily being equipped in a similar way. Merchant ships have been instructed to sail in groups, and to ram German submarines, while the examination is proceeding, or should the submarines lie alongside, to throw bombs upon them, or else to attempt to overpower the examining party coming on board.

A very high premium has been offered for the destruction of the first German submarine by a British merchant vessel. Therefore British merchant ships can not any more be considered as undefended, so that they may be attacked by German war vessels without

warning or search. The British admitted that instructions had been given to misuse neutral flags. It is almost certain that British merchant vessels will by all means try to conceal their identity. Thereby it also becomes almost impossible to ascertain the identity of neutral ships, unless they sail in daylight under convoy, as all measures suggested by neutrals—for instance, painting of the ships in the national colors—may be promptly imitated by British ships. The attacks to be expected by masked British merchant vessels make a search impossible, as the examining party and the submarines themselves would thereby be exposed to destruction.

Under the circumstances the safety of neutral shipping in the war zone around the British Isles is seriously threatened. There is also an increased danger resulting from mines, as these will be laid in the war zone to a great extent. Accordingly neutral ships are urgently warned against entering that area, while the course around Scotland will be safe.

Germany has been compelled to resort to this kind of warfare by the murderous ways of British naval warfare, which aims at the destruction of legitimate neutral trade and at the starvation of the German people. Germany will be obliged to adhere to these announced principles till England submits to the recognized rules of warfare established by the declarations of Paris and London, or till she is compelled to do so by the neutral powers. (The New York times, Feb. 16, 1915.)

Six days after our note and two days before the German order was to take effect the German Government replied to our "strict accountability" note as follows:

THE MINISTER FOR FOREIGN AFFAIRS TO THE AMERICAN AMBASSADOR.

In reference to the note of the 12th instant, foreign office No. 2260, relative to the German measures respecting the theater of war in the waters surrounding England, the undersigned has the honor to reply to his excellency the ambassador of the United States, James W. Gerard, as follows:

The Imperial German Government have examined the communication of the Government of the United States in the same spirit of good will and friendship which seems to have prompted this communication.

The Imperial German Government are in entire accord with the Government of the United States that it is in the highest degree desirable for all parties to avoid the misunderstanding which might arise from the measures announced by the German Admiralty and to avert the intrusion of events calculated to interrupt the most friendly relations which have so happily existed between the two Governments up to this time.

On this assurance the German Government believe that they may depend on full understanding on the part of the United States, all the more because the action announced by the German Admiralty, as was dwelt upon at length in the note of the 4th instant, is in no wise directed against the legitimate trade and navigation of neutral States, but merely represents an act of self-defense which Germany's vital interests force her to take against England's method of con-

ducting maritime war in defiance of international law, which no protest on the part of neutrals has availed to bring into accordance with the legal status generally recognized before the outbreak of hostilities.

In order to exclude all possible doubt on this cardinal point the German Government beg to set forth once more the actual situation.

Up to now Germany has scrupulously observed the existing provisions of international law relative to maritime war. In particular she assented without delay to the proposal made by the American Government directly after the war began to ratify the declaration of London, and embodied the contents thereof without change in her prize law, even without formally binding herself in this direction. The German Government have adhered to these provisions, even where they conflicted with military interests. Our Government at the same time have permitted the supply of food by Denmark to England until the present, although they could well have prevented this traffic by reason of their naval forces.

In direct opposition to this, England has not shrunk from grave violations of international law wherever she could thereby cripple Germany's peaceable trade with neutral countries. It will not be necessary for the German Government to go into great detail on this point, especially since the American note to the British Government dated December 28, 1914, which has been brought to their knowledge, has dealt with this point very aptly if not very exhaustively on the ground of the experiences of months.

It is conceded that the intention of all these aggressions is to cut off Germany from all supplies, and thereby to deliver up to death by famine a peaceful civilian population, a procedure contrary to law of war and every dictate of humanity.

The neutrals have not been able to prevent this interception of different kinds of trade with Germany contrary to international law. It is true that the American Government have protested against England's procedure, and Germany is glad to acknowledge this: but, in spite of this protest and the protests of the other neutral Governments, England has not allowed herself to be dissuaded from the course originally adopted. Thus, the American ship *Wilhelmina* was recently brought into port by England, although her cargo was destined solely for the civil population of Germany and was to be used only for this purpose, according to an express declaration of the German Government.

In this way the following has been created: Germany is to all intents and purposes cut off from over-sea supplies with the toleration, tacit or protesting, of the neutrals, regardless of whether it is a question of goods which are absolute contraband or only conditional contraband or not contraband at all, following the law generally recognized before the outbreak of the war. On the other hand, England, with the indulgence of neutral Governments, is not only being provided with such goods as are not contraband or merely conditional contraband, namely, foodstuffs, raw material, etc., although these are treated by England when Germany is in question as absolute contraband, but also with goods which have been regularly and unquestionably acknowledged to be absolute contraband. The German Government believe that they are obliged to point out very par-

ticularly and with the greatest emphasis that a trade in arms exists between American manufacturers and Germany's enemies which is estimated at many hundred million marks.

The German Government have given due recognition to the fact that as a matter of form the exercise of rights and the toleration of wrong on the part of neutrals is limited by their pleasure alone and involves no formal breach of neutrality. The German Government have not, in consequence, made any charge of formal breach of neutrality. The German Government can not, however, do otherwise, especially in the interest of absolute clearness in the relations between the two countries, than to emphasize that they, in common with the public opinion of Germany, feel themselves placed at a great disadvantage through the fact that the neutral powers have hitherto achieved no success, or only an unmeaning success, in their assertion of the right to trade with Germany, acknowledged to be legitimate by international law, whereas they make unlimited use of their right to tolerate trade in contraband with England and our other enemies. Conceded that it is the formal right of neutrals not to protect their legitimate trade with Germany, and even to allow themselves knowingly and willingly to be induced by England to restrict such trade, it is, on the other hand, not less their good right, although unfortunately not exercised, to stop trade in contraband, especially the trade in arms, with Germany's enemies.

In view of this situation the German Government see themselves compelled, after six months of patience and watchful waiting, to meet England's murderous method of conducting maritime war with drastic counter measures. If England invokes the powers of famine as an ally in its struggle against Germany with the intention of leaving a civilized people the alternative of perishing in misery or submitting to the yoke of England's political and commercial will, the German Government are to-day determined to take up the gauntlet and to appeal to the same grim ally. They rely on the neutrals who have hitherto tacitly or under protest submitted to the consequences, detrimental to themselves, of England's war of famine to display not less tolerance toward Germany, even if the German measures constitute new forms of maritime war, as has hitherto been the case with the English measures.

In addition to this, the German Government are determined to suppress with all the means at their disposal the supply of war material to England and her allies and assume at the same time that it is a matter of course that the neutral Governments which have hitherto undertaken no action against the trade in arms which (sic) [with] Germany's enemies do not intend to oppose the forcible suppression of this trade by Germany.

Proceeding from these points of view, the German Admiralty has declared the zone prescribed by it the seat of war; it will obstruct this area of maritime war by mines wherever possible and also endeavor to destroy the merchant vessels of the enemy in any other way.

It is very far, indeed, from the intention of the German Government, acting in obedience to these compelling circumstances, ever to destroy neutral lives and neutral property; but, on the other hand, they can not be blind to the fact that dangers arise through the action to be carried out against England which menace without

discrimination all trade within the area of maritime war. This applies, as a matter of course, to war mines, which place any ship approaching a mined area in danger, even if the limits of international law are adhered to most strictly.

The German Government believe that they are all the more justified in the hope that the neutral powers will become reconciled with this, just as they have with the serious injury caused them thus far by England's measures, because it is their will to do everything in any way compatible with the accomplishment of their purpose for the protection of neutral shipping even within the area of maritime war.

They furnish the first proof of their good will by announcing the measures intended by them at a time not less than two weeks beforehand in order to give neutral shipping an opportunity to make the necessary arrangements to avoid the threatening danger. The safest method of doing this is to stay away from the area of maritime war. Neutral ships entering the closed waters in spite of this announcement, given so far in advance, and which seriously impairs the accomplishment of the military purpose against England, bear their own responsibility for any unfortunate accidents. The German Government, on their side, expressly decline all responsibility for such accidents and their consequences.

Furthermore, the German Government announced merely the destruction of enemy merchant vessels found within the area of maritime war, and not the destruction of all merchant vessels, as the American Government appear to have erroneously understood. This limitation which the German Government have imposed upon themselves impairs the military purpose, especially since the presumption will prevail, even in the case of neutral ships, that they have contraband on board, in view of the interpretation of the idea of contraband in which the English Government have indulged as regards Germany and which the German Government will accordingly apply against England.

Naturally the Imperial Government are not willing to waive the right to establish the presence of contraband in the cargoes of neutral ships and, in cases requiring it, to take any action necessary on the grounds established. Finally, the German Government are prepared to accord, in conjunction with the American Government, the most earnest consideration to any measure that might be calculated to insure the safety of legitimate shipping of neutrals within the seat of war. They can not, however, overlook the fact that all efforts in this direction are considerably hampered by two circumstances: First, by the misuse of the neutral flag by English merchant vessels, which, in the meantime, has probably been established beyond a doubt by the American Government likewise; second, by the above-mentioned trade in contraband, especially war materials, by neutral merchant vessels. In regard to the latter point the German Government ventures to hope that the American Government, upon reconsideration, will see their way clear to a measure of intervention in accordance with the spirit of true neutrality.

As regards the first point, the secret order of the British Admiralty has already been communicated to the American Government by Germany. It recommends English merchant vessels to use neutral flags and has in the meantime been confirmed by a statement of the

British foreign office, which refers to the municipal law of England and characterizes such action as quite unobjectionable. The English merchant marine has followed this counsel without delay, as is probably known to the American Government from the cases of the *Lusitania* and *Laertes*. Moreover, the British Government have armed English merchant vessels and instructed them to resist by force the German submarines. In these circumstances it is very difficult for the German submarines to recognize neutral merchant vessels as such, for even a search will not be possible in the majority of cases, since the attacks to be anticipated in the case of a disguised English ship would expose the commanders conducting a search and the boat itself to the danger of destruction.

The British Government would then be in a position to render the German measures illusory if their merchant marine persists in the misuse of neutral flags and neutral vessels are not marked in some other manner admitting of no possible doubt. Germany must, in the exigency into which she has unlawfully been forced, make her measures effective at all events in order thereby to compel her adversary to conduct maritime warfare in accordance with international law, and thus to reestablish the freedom of the seas, which she has ever advocated and for which she is fighting likewise to-day.

The German Government, therefore, welcomes the fact that the American Government have made representations to the British Government relative to the use of their flag contrary to law, and give expression to the expectation that this action will cause England to respect the American flag in future.

In this expectation the commanders of the German submarines have been instructed, as was already stated in the note of the 4th instant, to abstain from violence to American merchant vessels when they are recognized as such.

In order to meet in the safest manner all the consequences of mistaking an American for a hostile merchant vessel, the German Government recommended that (although this would not apply in the case of danger from mines) the United States convoy their ships carrying peaceable cargoes and traversing the English seat of maritime war in order to make them recognizable. In this connection the German Government believe it should be made a condition that only such ships should be convoyed as carry no merchandise which would have to be considered as contraband, according to the interpretation applied by England against Germany. The German Government are prepared to enter into immediate negotiations with the American Government relative to the manner of convoy. They would, however, be particularly grateful if the American Government would urgently advise their merchant vessels to avoid the English seat of maritime war, at any rate until the flag question is settled.

The German Government resign themselves to the confident hope that the American Government will recognize the full meaning of the severe struggle which Germany is conducting for her very existence, and will gain full understanding of the reasons which prompt Germany and the aims of the measures announced by her from the above explanations and promises.

The German Government repeat that in the scrupulous consideration for neutrals hitherto practiced by them they have determined

upon the measures planned only under the strongest compulsion of national self-preservation. Should the American Government at the eleventh hour succeed in removing, by virtue of the weight which they have the right and ability to throw into the scales of the fate of peoples, the reasons which have made it the imperative duty of the German Government to take the action indicated; should the American Government in particular find a way to bring about the observation of the declaration of London on the part of the powers at war with Germany and thereby to render possible for Germany the legitimate supply of foodstuffs and industrial raw materials, the German Government would recognize this as a service which could not be too highly estimated in favor of more humane conduct of war, and would gladly draw the necessary conclusions from the new situation thus created.

The undersigned requests the ambassador to bring the above to the attention of the American Government and avails himself of the opportunity to renew, etc.

VON JAGOW.

Four days later our Government proposed simultaneously to both England and Germany mutual concessions on naval warfare as follows:

You will please deliver to Sir Edward Grey the following identic note, which we are sending England and Germany:

In view of the correspondence which has passed between this Government and Great Britain and Germany, respectively, relative to the declaration of a war zone by the German Admiralty and the use of neutral flags by British merchant vessels, this Government ventures to express the hope that the two belligerent Governments may, through reciprocal concessions, find a basis for agreement which will relieve neutral ships engaged in peaceful commerce from the great dangers which they will incur in the high seas adjacent to the coasts of the belligerents.

The Government of the United States respectfully suggests that an agreement in terms like the following might be entered into. This suggestion is not to be regarded as in any sense a proposal made by this Government, for it, of course, fully recognizes that it is not its privilege to propose terms of agreement between Great Britain and Germany, even though the matter be one in which it and the people of the United States are directly and deeply interested. It is merely venturing to take the liberty which it hopes may be accorded a sincere friend desirous of embarrassing neither nation involved and of serving, if it may, the common interests of humanity. The course outlined is offered in the hope that it may draw forth the views and elicit the suggestions of the British and German Governments on a matter of capital interest to the whole world.

Germany and Great Britain to agree:

1. That neither will sow any floating mines, whether upon the high seas or in territorial waters; that neither will plant on the high seas anchored mines except within cannon range of harbors for defensive purposes only; and that all mines shall bear the stamp of the Government planting them and be so constructed as to become harmless if separated from their moorings.

2. That neither will use submarines to attack merchant vessels of any nationality except to enforce the right of visit and search.

3. That each will require their respective merchant vessels not to use neutral flags for the purpose of disguise or ruse de guerre.

Germany to agree:

That all importations of food or foodstuffs from the United States (and from such other neutral countries as may ask it) into Germany shall be consigned to agencies to be designated by the United States Government; that these American agencies shall have entire charge and control, without interference on the part of the German Government, of the receipt and distribution of such importations, and shall distribute them solely to retail dealers bearing licenses from the German Government entitling them to receive and furnish such food and foodstuffs to noncombatants only; that any violation of the terms of the retailers' licenses shall work a forfeiture of their rights to receive such food and foodstuffs for this purpose; and that such food and foodstuffs will not be requisitioned by the German Government for any purpose whatsoever or be diverted to the use of the armed forces of Germany.

Great Britain to agree:

That food and foodstuffs will not be placed upon the absolute contraband list and that shipments of such commodities will not be interfered with or detained by British authorities if consigned to agencies designated by the United States Government in Germany for the receipt and distribution of such cargoes to licensed German retailers for distribution solely to the noncombatant population.

In submitting this proposed basis of agreement this Government does not wish to be understood as admitting or denying any belligerent or neutral right established by the principles of international law, but would consider the agreement, if acceptable to the interested powers, a modus vivendi based upon expediency rather than legal right and as not binding upon the United States either in its present form or in a modified form until accepted by this Government.

BRYAN.

On the 28th of February Germany virtually agreed to make concessions, as follows:

THE MINISTER FOR FOREIGN AFFAIRS TO THE AMERICAN AMBASSADOR.

The undersigned has the honor to inform his excellency, Mr. James W. Gerard, ambassador of the United States of America, in reply to the note of the 22d instant that the Imperial German Government have taken note with great interest of the suggestion of the American Government that certain principles for the conduct of maritime war on the part of Germany and England be agreed upon for the protection of neutral shipping. They see therein new evidence of the friendly feelings of the American Government toward the German Government which are fully reciprocated by Germany.

It is in accordance with Germany's wishes also to have maritime war conducted according to rules which without discriminately restricting one or the other of the belligerent powers in the use of

their means of warfare are equally considerate of the interests of neutrals and the dictates of humanity. Consequently it was intimated in the German note of the 16th instant that observation of the declaration of London on the part of Germany's adversaries would create a new situation from which the German Government would gladly draw the proper conclusions.

Proceeding from this view, the German Government have carefully examined the suggestion of the American Government and believe that they can actually see in it a suitable basis for the practical solution of the questions which have arisen.

With regard to the various points of the American note they beg to make the following remarks:

1. With regard to the sowing of mines, the German Government would be willing to agree as suggested not to use floating mines and to have anchored mines constructed as indicated. Moreover, they agree to put the stamp of the Government on all mines to be planted. On the other hand, it does not appear to them to be feasible for the belligerents wholly to forego the use of anchored mines for offensive purposes.

2. The German Government would undertake not to use their submarines to attack mercantile of any flag except when necessary to enforce the right of visit and search. Should the enemy nationality of the vessel or the presence of contraband be ascertained, submarine would proceed in accordance with the general rules of international law.

3. As provided in the American note, this restriction of the use of the submarine is contingent on the fact that enemy mercantile abstain from the use of the neutral flag and other neutral distinctive marks. It would appear to be a matter of course that such mercantile also abstain from arming themselves and from all resistance by force, since such procedure contrary to international law would render impossible any action of the submarines in accordance with international law.

4. The regulation of legitimate importations of food into Germany suggested by the American Government appears to be in general acceptable. Such regulation would, of course, be confined to importations by sea, but that would, on the other hand, include indirect importations by way of neutral ports. The German Government would therefore be willing to make the declarations of the nature provided in the American note so that the use of the imported food and foodstuffs solely by the noncombatant population would be guaranteed. The Imperial Government must, however, in addition (* * *) (apparent omission) having the importation of other raw material used by the economic system of noncombatants including forage permitted. To that end the enemy Governments would have to permit the free entry into Germany of the raw materials mentioned in the free list of the declaration of London, and to treat materials included in the list of conditional contraband according to the same principles as food and foodstuffs.

The German Government ventures to hope that the agreement for which the American Government has paved the way may be reached after due consideration of the remarks made above, and that in this way peaceable neutral shipping and trade will not have to suffer any more than is absolutely necessary from the unavoidable effects of

maritime war. These effects could be still further reduced if, as was pointed out in the German note of the 16th instant, some way could be found to exclude the shipping of munitions of war from neutral countries to belligerents on ships of any nationality.

On March 1 England made her statement. It was read by the prime minister to the House of Commons and communicated to the neutral powers:

THE BRITISH AMBASSADOR AT WASHINGTON TO THE SECRETARY OF STATE.

Germany has declared that the English Channel, the north and west coasts of France, and the waters around the British Isles are a war area, and has officially notified that all enemy ships found in that area will be destroyed, and that neutral vessels may be exposed to danger. This is in effect a claim to torpedo at sight, without regard to the safety of the crew or passengers, any merchant vessel under any flag. As it is not in the power of the German admiralty to maintain any surface craft in these waters, this attack can only be delivered by submarine agency.

The law and custom of nations in regard to attacks on commerce have always presumed that the first duty of the captor of a merchant vessel is to bring it before a prize court, where it may be tried, where the regularity of the capture may be challenged, and where neutrals may recover their cargoes. The sinking of prizes is in itself a questionable act, to be resorted to only in extraordinary circumstances and after provision has been made for the safety of all the crew or passengers, if there are passengers on board. The responsibility for discriminating between neutral and enemy vessels and between neutral and enemy cargo obviously rests with the attacking ship, whose duty it is to verify the status and character of the vessel and cargo and to preserve all papers before sinking or even capturing it. So also is the humane duty of providing for the safety of the crews of merchant vessels, whether neutral or enemy, an obligation upon every belligerent.

It is upon this basis that all previous discussions of the law for regulating warfare at sea have proceeded. A German submarine, however, fulfills none of these obligations; she enjoys no local command of the waters in which she operates; she does not take her captures within the jurisdiction of a prize court; she carries no prize crew which she can put on board a prize; she uses no effective means of discriminating between a neutral and an enemy vessel; she does not receive on board for safety the crew and passengers of the vessel she sinks; her methods of warfare are therefore entirely outside the scope of any of the international instruments regulating operations against commerce in time of war. The German declaration substitutes indiscriminate destruction for regulated capture. Germany is adopting these methods against peaceful traders and noncombatant crews with the avowed object of preventing commodities of all kinds, including food for the civil population, from reaching or leaving the British Isles or northern France.

Her opponents are therefore driven to frame retaliatory measures in order in their turn to prevent commodities of any kind from reaching or leaving Germany. These measures will, however, be

enforced by the British and French Governments without risk to neutral ships or to neutral or noncombatant life and in strict observance of the dictates of humanity. The British and French Governments will therefore hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership, or origin. It is not intended to confiscate such vessels or cargoes unless they would otherwise be liable to condemnation. The treatment of vessels and cargoes which have sailed before this date will not be affected.

CECIL SPRING-RICE.

On the 4th of March Congress adopted a resolution safeguarding the neutrality of American waters:

Resolved, etc., That from and after the passage of this resolution, and during the existence of a war to which the United States is not a party and in order to prevent the neutrality of the United States from being violated by the use of its territory, its ports, or its territorial waters, as the base of operations for the armed forces of a belligerent, contrary to the obligations imposed by the law of nations, the treaties to which the United States is a party, or contrary to the statutes of the United States, the President be, and he is hereby, authorized and empowered to direct the collectors of customs under the jurisdiction of the United States to withhold clearance from any vessel of American or foreign registry, or license, which he has reasonable cause to believe to be about to carry fuel, arms, ammunition, men, or supplies to any warship, or tender, or supply ships of a belligerent nation in violation of the obligations of the United States as a neutral nation.

In case any such vessel of America register or license shall depart or attempt to depart from the jurisdiction of the United States, without clearance, for any of the purposes, the owner or master, or person or persons having charge or command of such vessel, shall severally be liable to a fine of not less than $2,000 nor more than $10,000 or to imprisonment not to exceed two years, or both; and in addition such vessels shall be forfeited to the United States.

That the President of the United States be, and he is hereby, authorized and empowered to employ such part of the land or naval forces of the United States as shall be necessary to carry out the purposes of this resolution.

That the provisions of this resolution shall be deemed to extend to all lands and waters, continental or insular, within the jurisdiction of the United States. (The New York Times, Mar. 4, 1915.)

On the next day the American Government inquired of Great Britain how the restraint upon sea-borne commerce with Germany is to be effected:

THE SECRETARY OF STATE TO THE AMERICAN AMBASSADOR AT LONDON.

In regard to the recent communications received from the British and French Governments concerning restraints upon commerce with Germany, please communicate with the British foreign office in the sense following:

The difficulty of determining action upon the British and French declarations of intended retaliation upon commerce with Germany

lies in the nature of the proposed measures in their relation to commerce by neutrals.

While it appears that the intention is to interfere with and take into custody all ships, both outgoing and incoming, trading with Germany, which is in effect a blockade of German ports, the rule of blockade, that a ship attempting to enter or leave a German port regardless of the character of its cargo may be condemned, is not asserted.

The language of the declaration is: "The British and French Governments will therefore hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership or origin. It is not intended to confiscate such vessels or cargoes unless they would otherwise be liable to condemnation."

The first sentence claims a right pertaining only to a state of blockade. The last sentence proposes a treatment of ships and cargoes as if no blockade existed. The two together present proposed course of action previously unknown to international law.

As a consequence, neutrals have no standard by which to measure their rights or to avoid danger to their ships and cargoes. The paradoxical situation thus created should be changed, and the declaring powers ought to assert whether they rely upon the rules governing a blockade or the rules applicable when no blockade exists.

The declaration presents other perplexities.

The last sentence quoted indicates that the rules of contraband are to be applied to cargoes detained. The rule covering noncontraband articles carried in neutral bottoms is that the cargoes shall be released and the ships allowed to proceed. This rule can not, under the first sentence quoted, be applied as to destination. What, then, is to be done with a cargo of noncontraband goods detained under the declaration? The same question may be asked as to conditional-contraband cargoes.

The foregoing comments apply to cargoes destined for Germany. Cargoes coming out of German ports present another problem under the terms of the declaration. Under the rules governing enemy exports, only goods owned by enemy subjects in enemy bottoms are subject to seizure and condemnation. Yet by the declaration it is purposed to seize and take into port all goods of enemy "ownership and origin." The word "origin" is particularly significant. The origin of goods destined to neutral territory on neutral ships is not and never has been a ground for forfeiture except in case a blockade is declared and maintained. What, then, would the seizure amount to in the present case except to delay the delivery of the goods? The declaration does not indicate what disposition would be made of such cargoes if owned by a neutral or if owned by an enemy subject. Would a different rule be applied, according to ownership? If so, upon what principles of international law would it rest? And upon what rule, if no blockade is declared and maintained, could the cargo of a neutral ship sailing out of a German port be condemned? If it is not condemned, what other legal course is there but to release it?

While this Government is fully alive to the possibility that the methods of modern naval warfare, particularly in the use of the submarine for both defensive and offensive operations, may make the former means of maintaining a blockade a physical impossibility, it feels that it can be urged with great force that there should be

also some limit to "the radius of activity," and especially so if this action by the belligerents can be construed to be a blockade. It would certainly create a serious state of affairs if, for example, an American vessel laden with a cargo of German origin should escape the British patrol in European waters only to be held up by a cruiser off New York and taken into Halifax.

Similar cablegram sent to Paris.

BRYAN.

On the 13th of March the British Government rejected this Government's proposal for mutual concessions in the following language:

THE SECRETARY OF STATE FOR FOREIGN AFFAIRS TO THE AMERICAN AMBASSADOR.

On the 22d of February last I received a communication from your excellency of the identic note addressed to His Majesty's Government and to Germany respecting an agreement on certain points as to the conduct of the war at sea. The reply of the German Government to this note has been published, and it is not understood from the reply that the German Government are prepared to abandon the pactice of sinking British merchant vessels by submarines, and it is evident from their reply that they will not abandon the use of mines for offensive purposes on the high seas as contrasted with the use of mines for defensive purposes only within cannon range of their own harbors, as suggested by the Government of the United States. This being so, it might appear unnecessary for the British Government to make any further reply than to take note of the German answer. We desire, however, to take the opportunity of making a fuller statement of the whole position and of our feeling with regard to it. We recognize with sympathy the desire of the Government of the United States to see the European war conducted in accordance with the previously recognized rules of international law and the dictates of humanity. It is thus that the British forces have conducted the war, and we are not aware that these forces, either naval or military, can have laid to their charge any improper proceedings, either in the conduct of hostilities or in the treatment of prisoners or wounded. On the German side it has been very different.

1. The treatment of civilian inhabitants in Belgium and the north of France has been made public by the Belgian and French Governments and by those who have had experience of it at first hand. Modern history affords no precedent for the sufferings that have been inflicted on the defenseless and noncombatant population in the territory that has been in German military occupation. Even the food of the population was confiscated until in Belgium an international commission, largely influenced by American generosity and conducted under American auspices, came to the relief of the population and secured from the German Government a promise to spare what food was still left in the country, though the Germans still continue to make levies in money upon the defenseless population for the support of the German Army.

2. We have from time to time received most terrible accounts of the barbarous treatment to which British officers and soldiers have been exposed after they have been taken prisoner while being con-

veyed to German prison camps; one or two instances have already been given to the United States Government founded upon authentic and first-hand evidence which is beyond doubt. Some evidence has been received of the hardships to which British prisoners of war are subjected in the prison camps, contrasting, we believe, most unfavorably with the treatment of German prisoners in this country. We have proposed, with the consent of the United States Government, that a commission of United States officers should be permitted in each country to inspect the treatment of prisoners of war. The United States Government have been unable to obtain any reply from the German Government to this proposal, and we remain in continuing anxiety and apprehension as to the treatment of British prisoners of war in Germany.

3. At the very outset of the war a German mine layer was discovered laying a mine field on the high seas. Further mine fields have been laid from time to time without warning, and, so far as we know, are still being laid on the high seas, and many neutral as well as British vessels have been sunk by them.

4. At various times during the war German submarines have stopped and sunk British merchant vessels, thus making the sinking of merchant vessels a general practice, though it was admitted previously, if at all, only as an exception, the general rule to which the British Government have adhered being that merchant vessels, if captured, must be taken before a prize court. In one case already quoted in a note to the United States Government a neutral vessel carrying foodstuffs to an unfortified town in Great Britain has been sunk. Another case is now reported in which a German armed cruiser has sunk an American vessel, the *William P. Frye*, carrying a cargo of wheat from Seattle to Queenstown. In both cases the cargoes were presumably destined for the civil population. Even the cargoes in such circumstances should not have been condemned without the decision of a prize court, much less should the vessels have been sunk. It is to be noted that both these cases occurred before the detention by the British authorities of the *Wilhelmina* and her cargo of foodstuffs which the German Government allege is the justification for their own action. The Germans have announced their intention of sinking British merchant vessels by torpedo without notice and without any provision for the safety of the crew. They have already carried out this intention in the case of neutral as well as of British vessels, and a number of noncombatant and innocent lives on British vessels, unarmed and defenseless, have been destroyed in this way.

5. Unfortified, open, and defenseless towns, such as Scarborough, Yarmouth, and Whitby, have been deliberately and wantonly bombarded by German ships of war, causing in some cases considerable loss of civilian life, including women and children.

6. German aircraft have dropped bombs on the east coast of England where there were no military or strategic points to be attacked. On the other hand, I am aware of but two criticisms that have been made on British action in all these respects: (1) It is said that the British naval authorities also have laid some anchored mines on the high seas. They have done so, but the mines were anchored and so constructed that they would be harmless if they went adrift, and no mines whatever were laid by the British naval authorities till many

weeks after the Germans had made a regular practice of laying mines on the high seas. (2) It is said that the British Government have departed from the view of international law which they had previously maintained, that foodstuffs destined for the civil population should never be interfered with, this charge being founded on the submission to a prize court of the cargo of the *Wilhelmina*. The special considerations affecting this cargo have already been presented in a memorandum to the United States Government, and I need not repeat them here. Inasmuch as the stoppage of all foodstuffs is an admitted consequence of blockade, it is obvious that there can be no universal rule based on considerations of morality and humanity which is contrary to this practice. The right to stop foodstuffs destined for the civil population must therefore in any case be admitted if an effective "cordon" controlling intercourse with the enemy is drawn, announced, and maintained. Moreover, independently of rights arising from belligerent action in the nature of blockade, some other nations, differing from the opinion of the Governments of the United States and Great Britain, have held that to stop the food of the civil population is a natural and legitimate method of bringing pressure to bear on an enemy country, as it is upon the defense of a besieged town. It is also upheld on the authority of both Prince Bismarck and Count Caprivi on the point. Prince Bismarck, in answering, in 1885, an application from the Kiel Chamber of Commerce for a statement of the view of the German Government on the question of the right to declare as contraband foodstuffs that were not intended for military forces, said: "I reply to the chamber of commerce that any disadvantage our commercial and carrying interests may suffer by the treatment of rice as contraband of war does not justify our opposing a measure which it has been thought fit to take in carrying on a foreign war. Every war is a calamity which entails evil consequences, not only on the combatants but also on neutrals. These evils may easily be increased by the interference of a neutral power with the way in which a third carries on the war to the disadvantage of the subjects of the interfering power, and by this means German commerce might be weighted with far heavier losses than a transitory prohibition of the rice trade in Chinese waters. The measure in question has for its object the shortening of the war by increasing the difficulties of the enemy, and is a justifiable step in war if impartially enforced against all neutral ships." Count Caprivi, during a discussion in the German Reichstag on the 4th of March, 1892, on the subject of the importance of international protection for private property at sea, made the following statements: "A country may be dependent for her food or for her raw products upon her trade. In fact it may be absolutely necessary to destroy the enemy's trade." * * * "The private introduction of provisions into Paris was prohibited during the siege, and in the same way a nation would be justified in preventing the import of food and raw produce." The Government of Great Britain have frankly declared, in concert with the Government of France, their intention to meet the German attempt to stop all supplies of every kind from leaving or entering British or French ports by themselves stopping supplies going to or from Germany by sea. The difference between the two policies is, however, effectively controlling by cruiser "cordon" all passage to and from Germany

by sea. The difference between the two policies is, however, that while our object is the same as that of Germany, we propose to attain it without sacrificing neutral ships or noncombatant lives or inflicting upon neutrals the damage that must be entailed when a vessel and its cargo are sunk without notice, examination, or trial. I must emphasize again that this measure is a natural and necessary consequence of the unprecedented methods, repugnant to all law and morality, which have been described above, which Germany began to adopt at the very outset of the war, and the effects of which have been constantly accumulating. (Dip. Corr., 64–65.)

On the 15th of March Britain replied to the American inquiry as to the sea-borne trade with Germany:

THE SECRETARY OF STATE FOR FOREIGN AFFAIRS TO THE AMERICAN AMBASSADOR.

1. His Majesty's Government have had under careful consideration the inquiries which, under instructions from your Government, your excellency addressed to me on the 8th instant regarding the scope and mode of application of the measures, foreshadowed in the British and French declarations of the 1st of March, for restricting the trade of Germany. Your excellency explained and illustrated by reference to certain contingencies the difficulty of the United States Government in adopting a definite attitude toward these measures by reason of uncertainty regarding their bearing upon the commerce of neutral countries.

2. I can at once assure your excellency that subject to the paramount necessity of restricting German trade His Majesty's Government have made it their first aim to minimize inconvenience to neutral commerce. From the accompanying copy of the order in council, which is to be published to-day, you will observe that a wide discretion is afforded to the prize court in dealing with the trade of neutrals in such manner as may in the circumstances be deemed just and that full provision is made to facilitate claims by persons interested in any goods placed in the custody of the marshal of the prize court under the order. I apprehend that the perplexities to which your excellency refers will for the most part be dissipated by the persual of this document and that it is only necessary for me to add certain explanatory observations.

3. The effect of the order in council is to confer certain powers upon the executive officers of His Majesty's Government. The extent to which those powers will be actually exercised and the degree of severity with which the measures of blockade authorized will be put into operation are matters which will depend on the administrative orders issued by the Government and the decisions of the authorities specially charged with the duty of dealing with individual ships and cargoes, according to the merits of each case. The United States Government may rest assured that the instructions to be issued by His Majesty's Government to the fleet and to the customs officials and executive committees concerned will impress upon them the duty of acting with the utmost dispatch consistent with the object in view and of showing in every case such consideration for neutrals as may be compatible with that object which is,

succinctly stated, to establish a blockade to prevent vessels from carrying goods for or coming from Germany.

4. His Majesty's Government have felt most reluctant at the moment of initiating a policy of blockade to exact from neutral ships all the penalties attaching to a breach of blockade. In their desire to alleviate the burden which the existence of a state of war at sea must inevitably impose on neutral sea-borne commerce, they declare their intention to refrain altogether from the exercise of the right to confiscate ships or cargoes which belligerents have always claimed in respect to breaches of blockade. They restrict their claim to the stopping of cargoes destined for or coming from the enemy's territory.

5. As regards cotton, full particulars of the arrangements contemplated have already been explained. It will be admitted that every possible regard has been had to the legitimate interests of the American cotton trade.

6. Finally, in reply to the penultimate paragraph of your excellency's note, I have the honor to state that it is not intended to interfere with neutral vessels carrying enemy cargo of noncontraband nature outside European waters, including the Mediterranean. (Dip. Corr. 65.)

British order in council, March 15, 1915, in restraint of sea-borne commerce with Germany.

Whereas the German Government has issued certain orders which, in violation of the usages of war, purport to declare the waters surrounding the United Kingdom a military area, in which all British and allied merchant vessels will be destroyed, irrespective of the safety of the lives of passengers and crew, and in which neutral shipping will be exposed to similar danger in view of the uncertainties of naval warfare; and

Whereas in a memorandum accompanying the said orders neutrals are warned against intrusting crews, passengers, or goods to British or allied ships; and

Whereas such attempts on the part of the enemy give to His Majesty an unquestionable right of retaliation; and

Whereas His Majesty has therefore decided to adopt further measures in order to prevent commodities of any kind from reaching or leaving Germany, though such measures will be enforced without risk to neutral ships or to neutral or noncombatant life and in strict observance of the dictates of humanity; and

Whereas the allies of His Majesty are associated with him in the steps now to be announced for restricting further the commerce of Germany:

His Majesty is therefore pleased, by and with the advice of his privy council, to order, and it is hereby ordered, as follows:

1. No merchant vessel (sic) which sailed from her port of departure after the 1st March, 1915, shall be allowed to proceed on her voyage to any German port.

Unless the vessel receives a pass enabling her to proceed to some neutral or allied port to be named in the pass, goods on board any such vessel must be discharged in a British port and placed in the custody of the marshal of the prize court. Goods so discharged, not

being contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the court, upon such terms as the court may in the circumstances deem to be just, to the person entitled thereto.

2. No merchant vessel which sailed from any German port after the 1st March, 1915, shall be allowed to proceed on her voyage with any goods on board laden at such port.

All goods laden at such port must be discharged in a British or allied port. Goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and if not requisitioned for the use of His Majesty shall be detained or sold under the direction of the prize court. The proceeds of goods so sold shall be paid into court and dealt with in such manner as the court may in the circumstances deem to be just.

Provided, That no proceeds of the sale of such goods shall be paid out of court until the conclusion of peace, except on the application of the proper officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this order.

Provided also, That nothing herein shall prevent the release of neutral property laden at such enemy port on the application of the proper officer of the Crown.

3. Every merchant vessel which sailed from her port of departure after the 1st of March, 1915, on her way to a port other than a German port, carrying goods with an enemy destination or which are enemy property, may be required to discharge such goods in a British or allied port. Any goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and, unless they are contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the court upon such terms as the court may in the circumstances deem to be just to the person entitled thereto.

Provided, That this article shall not apply in any case falling within articles 2 or 4 of this order.

4. Every merchant vessel which sailed from a port other than a German port after the 1st of March, 1915, having on board goods which are of enemy origin or are enemy property may be required to discharge such goods in a British or allied port. Goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and if not requisitioned for the use of His Majesty shall be detained or sold under the direction of the prize court. The proceeds of goods so sold shall be paid into court and dealt with in such manner as the court may in the circumstances deem to be just.

Provided that no proceeds of sale of such goods shall be paid out of court until the conclusion of peace, except on the application of the proper officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this order.

Provided, also, that nothing herein shall prevent the release of neutral property of enemy origin on the application of the proper officer of the Crown.

5. Any person claiming to be interested in, or to have any claim in respect of, any goods (not being contraband of war) placed in the custody of the marshal of the prize court under this order, or in the proceeds of such goods, may forthwith issue a writ in the prize court

against the proper officer of the Crown and apply for an order that the goods should be restored to him, or that their proceeds should be paid to him, or for such other order as the circumstances of the case may require.

The practice and procedure of the prize court shall, so far as applicable, be followed mutatis mutandis in any proceedings consequential upon this order.

6. A merchant vessel which has cleared for a neutral port from a British or allied port, or which has been allowed to pass, having an ostensible destination to a neutral port, and proceeds to an enemy port, shall, if captured on any subsequent voyage, be liable to condemnation.

7. Nothing in this order shall be deemed to affect the liability of any vessel or goods to capture or condemnation independently of this order.

8. Nothing in this order shall prevent the relaxation of the provisions of this order in respect of the merchant vessels of any country which declares that no commerce intended for or originating in Germany or belonging to Germany (sic) subjects shall enjoy the protection of its flag. (Dip. Corr., 66.)

British order in council, March 23, 1915, authorizing the requisition of neutral ships. (Presented by the solicitor of the Crown in an argument in favor of requisitioning the cargo of foodstuffs on the *Wilhelmina*. See Nos. 20 and 25.)

Whereas by section 3 of the prize courts act, 1894, His Majesty in council is authorized to make rules of court for regulating, subject to the provisions of the naval prize act, 1864, and the said act, the procedure and practice of prize courts within the meaning of the naval prize act, 1864, and the duties and conduct of the officers of the courts and of the practitioners therein, and for regulating the fees to be taken by the officers thereof, and the costs, charges, and expenses to be allowed to the practitioners therein; and

Whereas in pursuance of the prize courts act, 1894, certain rules were made by the order of His Majesty in council, dated the 5th day of August, 1914, and amended by the orders of His Majesty in council of the 30th day of September, 1914, and the 28th day of November, 1914, respectively, which said rules and amended rules were by the said orders in council directed to take effect provisionally in accordance with the provisions of section 2 of the rules publication act, 1893, from the dates of the said orders in council, respectively; and

Whereas the provisions of section 1 of the rules publication act, 1893, were duly complied with in respect of the said rules and amended rules, and the same were finally made by the orders of His Majesty in council, dated, respectively, the 17th day of September, 1914, the 28th day of November, 1914, and the 3d day of February, 1915; and

Whereas it is expedient that the said rules and amended rules should be further amended; and

Whereas on account of urgency this order should come into immediate operation: Now, therefore, His Majesty, by virtue of the powers in this behalf by the said act or otherwise in him vested, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, as follows:

1. That in order 9 (discovery, inspection, and admission of documents and facts) of the said rules:

In rule 1, the words "upon filing an affidavit" shall be omitted.

In rule 1, instead of the words "any other party" there shall be substituted the words "any party other than the proper officer of the Crown."

2. That in order 11 (sale, appraisement, safe custody, and inspection of prize) of the said rules, in rule 1, the following words shall be omitted: "On account of the condition of a ship, or on application of a claimant, and on or after condemnation."

3. That in order 15 (evidence and hearing) of the said rules the following rule shall be added:

"21. Notwithstanding anything contained in these rules the proper officer of the Crown may apply to the judge for leave to administer interrogatories for the examination of any person, whether a party to the cause or not."

4. That order 29 (requisition by admiralty) of the said rules, as amended by His Majesty's order in council dated the 28th day of November, 1914, shall be, and the same is hereby, revoked, and in lieu thereof the following order shall have effect:

"ORDER 29.—REQUISITION.

"1. Where it is made to appear to the judge on the application of the proper officer of the Crown that it is desired to requisition on behalf of His Majesty a ship in respect to which no final decree of condemnation has been made, he shall order that the ship shall be appraised, and that upon an undertaking being given in accordance with rule 5 of this order, the ship shall be released and delivered to the Crown.

"2. Where a decree for the detention of a ship has been made in accordance with order 28, the proper officer of the Crown may file a notice (Appendix A, Form No. 55) that the Crown desires to requisition the same, and thereupon a commission (Appendix A, Form No. 56) to the marshal directing him to appraise the ship shall issue. Upon an undertaking being given in accordance with rule 5 of this order the ship shall be released and delivered to the Crown. Service of this notice shall not be required before filing, but copies thereof shall be served upon the parties by the proper officer of the Crown as soon thereafter as possible.

"3. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the ship is required for the service of His Majesty forthwith, the judge may order the same to be forthwith released and delivered to the Crown without appraisement.

"4. In any case where a ship has been requisitioned under the provisions of this order, and whether or not an appraisement has been made, the court may, on the application of any party, fix the amount to be paid by the Crown in respect of the value of the ship.

"5. In every case of requisition under this order an undertaking in writing shall be filed by the proper officer of the Crown for pay-

ment into court on behalf of the Crown of the appraised value of the ship, or of the amount fixed under rule 4 of this order, as the case may be, at such time or times as the court shall declare by order that the same or any part thereof is required for the purpose of payment out of court.

"6. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the Crown desires to requisition the ship temporarily, the court may, in lieu of an order of release, make an order for the temporary delivery of the ship to the Crown, and subject as aforesaid the provisions of this order shall apply to such a requisition, provided that, in the event of the return of the ship to the custody of the court, the court may make such order as it thinks fit for the release of the undertaking given on behalf of the Crown or the reduction of the amount undertaken to be paid thereby, as the case may be; and provided also, that where the ship so requisitioned is subject to the provisions of order 28, rule 1, relating to detention, the amount for which the Crown shall be considered liable in respect of such requisition shall be the amount of the damage, if any, which the ship has suffered by reason of such temporary delivery as aforesaid.

"7. The proceedings in respect of a ship requisitioned under this order shall continue notwithstanding the requisition.

"8. In any case of requisition of a ship in respect of which no cause has been instituted, any person interested in such ship may, without issuing a writ, provided he does not intend to make a claim for restitution or damages, apply by summons for an order that the amount to be paid in respect to such ship be fixed by the court, and the judge may, on the hearing of such summons, order the ship to be appraised or to be valued, or give such other directions for fixing the amount as he may think fit."

5. That in Form 4 in Appendix A to the said rules there shall be omitted the words "commander of our ship of war" and the words "taken and seized as prize by our said ship of war."

6. This order shall take effect provisionally in accordance with the provisions of section 2 of the rules-publication act, 1893, from the date hereof. (Dip. Corr., 72–73.)

On January 28 the *W. P. Frye* was destroyed by a German auxiliary cruiser. *Prinz Eitel Friedrich*, seeking refuge in Newport News Harbor, brought with her the crew of the *Frye*, a four-masted bark, which had sailed on November 4, 1914, from Seattle with a cargo of wheat consigned to United Kingdom ports.

The *Prinz Eitel* had encountered her on the high seas January 27, 1915, and sunk her, the German captain contending that her cargo was conditional contraband and that since he had no means of delivering her to a prize court he had the right to sink her, under the provisions of the declaration of London.

The American Government, in April, asked compensation of $228,059 for the destruction of the vessel. The German Government replied on April 8, admitting liability under treaties of commerce between the United States and Prussia. Settlement was left to arbitration, still uninvoked March 4, 1917.

The correspondence, which comprises several notes, was printed on January 11, 1916, and is found in the first session of the Sixty-fourth Congress, pages 883 to 913. It is not necessary to reproduce it here.

This dispute does not involve the submarine controversy.

The seizure of the *Wilhelmina*, with a cargo of foodstuffs, was the occasion of several notes on the question of contraband. This correspondence does not involve the submarine controversy, and it is not necessary to insert it here. It will be found in the Congressional Record, first session Sixty-fourth Congress, pages 883 to 913.[1]

On April 4 Germany filed a memorandum concerning the British restraint of sea-borne trade with Germany and the American exportation of war material:

THE GERMAN AMBASSADOR TO THE SECRETARY OF STATE.

The various British orders in council have one-sidedly modified the generally recognized principles of international law in a way which arbitrarily stops the commerce of neutral nations with Germany. Even before the last British order in council, the shipment of conditional contraband, especially food supplies, to Germany was practically impossible. Prior to the protest sent by the American to the British Government on December 28 last, such a shipment did not actually take place in a single case. Even after this protest the Imperial Embassy knows of only a single case in which an American shipper has ventured to make such a shipment for the purpose of legitimate sale to Germany. Both ship and cargo were immediately seized by the English and are being held in an English port under the pretext of an order of the German federal council (Bundesrath) regarding the grain trade, although this resolution of the federal council relates exclusively to grain and flour, and not to other foodstuffs, besides making an express exception with respect to imported foodstuffs, and although the German Government gave the American Government an assurance and proposed a special organization whereby the exclusive consumption by the civilian population is absolutely guaranteed.

Under the circumstances, the seizure of the American ship was inadmissible according to recognized principles of international law. Nevertheless, the United States Government has not to date secured the release of the ship and cargo, and has not, after a duration of the war of eight months, succeeded in protecting its lawful trade with Germany.

Such a long delay, especially in matters of food supply, is equivalent to an entire denial.

The Imperial Embassy must therefore assume that the United States Government acquiesces in the violations of international law by Great Britain.

Then there is also the attitude of the United States in the question of the exportation of arms. The Imperial Government feels sure that the United States Government will agree that in questions of neutrality it is necessary to take into consideration not only the

[1] See pages 274–280.

ment into court on behalf of the Crown of the appraised value of the ship, or of the amount fixed under rule 4 of this order, as the case may be, at such time or times as the court shall declare by order that the same or any part thereof is required for the purpose of payment out of court.

"6. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the Crown desires to requisition the ship temporarily, the court may, in lieu of an order of release, make an order for the temporary delivery of the ship to the Crown, and subject as aforesaid the provisions of this order shall apply to such a requisition, provided that, in the event of the return of the ship to the custody of the court, the court may make such order as it thinks fit for the release of the undertaking given on behalf of the Crown or the reduction of the amount undertaken to be paid thereby, as the case may be; and provided also, that where the ship so requisitioned is subject to the provisions of order 28, rule 1, relating to detention, the amount for which the Crown shall be considered liable in respect of such requisition shall be the amount of the damage, if any, which the ship has suffered by reason of such temporary delivery as aforesaid.

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Then there is also the attitude of the United States in the question of the exportation of arms. The Imperial Government feels sure that the United States Government will agree that in questions of neutrality it is necessary to take into consideration not only the

[1] See pages 274–280.

formal aspect of the case, but also the spirit in which the neutrality is carried out.

The situation in the present war differs from that of any previous war. Therefore any reference to arms furnished by Germany in former wars is not justified, for then it was not a question whether war material should be supplied to the belligerents, but who should supply it in competition with other nations. In the present war all nations having a war-material industry worth mentioning are either involved in the war themselves or are engaged in perfecting their own armaments, and have therefore laid an embargo against the exportation of war material. The United States is, accordingly, the only neutral country in a position to furnish war materials. The conception of neutrality is thereby given a new purport, independently of the formal question of hitherto existing law. In contradiction thereto the United States is building up a powerful arms industry in the broadest sense, the existing plants not only being worked but enlarged by all available means, and new ones built. The international conventions for the protection of the rights of neutral nations doubtless sprang from the necessity of protecting the existing industries of neutral nations as far as possible from injury in their business. But it can in no event be in accordance with the spirit of true neutrality if, under the protection of such international stipulations, an entirely new industry is created in a neutral State, such as is the development of the arms industry in the United States, the business whereof, under the present conditions, can benefit only the belligerent powers.

This industry is actually delivering goods only to the enemies of Germany. The theoretical willingness to supply Germany also, if shipments thither were possible, does not alter the case. If it is the will of the American people that there shall be a true neutrality the United States will find means of preventing this one-sided supply of arms or at least of utilizing it to protect legitimate trade with Germany, especially that in foodstuffs. This view of neutrality should all the more appeal to the United States Government, because the latter enacted a similar policy toward Mexico. On February 4, 1914, President Wilson, according to a statement of a Representative in Congress in the Committee on Foreign Affairs, of December 30, 1914, upon the lifting of the embargo on arms to Mexico, declared that "we should stand for genuine neutrality, considering the surrounding facts of the case * * *." He then held that "in that case, because Carranza had no ports, while Huerta had them and was able to import these materials, that it was our duty as a nation to treat Carranza and Huerta upon an equality if we wished to observe the true spirit of neutrality, as compared with a mere paper neutrality."

If this view were applied to the present case it would lead to an embargo on the exportation of arms. (Dip. Corr., 73–74.)

On April 21 our Government replied to Germany's note of the 4th:

THE SECRETARY OF STATE TO THE GERMAN AMBASSADOR.

EXCELLENCY: I have given thoughtful consideration to your excellency's note of the 4th of April, 1915, inclosing a memorandum of

the same date, in which your excellency discusses the action of the Government with regard to trade between the United States and Germany and the attitude of this Government with regard to the exportation of arms from the United States to the nations now at war with Germany.

I must admit that I am somewhat at a loss how to interpret your excellency's treatment of these matters. There are many circumstances connected with these important subjects to which I would have expected your excellency to advert, but of which you make no mention, and there are other circumstances to which you do refer which I would have supposed to be hardly appropriate for discussion between the Government of the United States and the Government of Germany.

I shall take the liberty, therefore, of regarding your excellency's reference to the course pursued by the Government of the United States with regard to interferences with trade from this country, such as the Government of Great Britain has attempted, as intended merely to illustrate more fully the situation to which you desire to call our attention and not as an invitation to discuss that course. Your excellency's long experience in international affairs will have suggested to you that the relations of the two Governments with one another can not wisely be made a subject of discussion with a third Government, which can not be fully informed as to the facts and which can not be fully cognizant of the reasons for the course pursued. I believe, however, that I am justified in assuming that what you desire to call forth is a frank statement of the position of this Government in regard to its obligations as a neutral power. The general attitude and course of policy of this Government in the maintenance of its neutrality I am particularly anxious that your excellency should see in their true light. I had hoped that this Government's position in these respects had been made abundantly clear, but I am, of course, perfectly willing to state it again. This seems to me the more necessary and desirable because, I regret to say, the language which your excellency employs in your memorandum is susceptible of being construed as impugning the good faith of the United States in the performance of its duties as a neutral. I take it for granted that no such implication was intended, but it is so evident that your excellency is laboring under certain false impressions that I can not be too explicit in setting forth the facts as they are, when fully reviewed and comprehended.

In the first place, this Government has at no time and in no manner yielded any one of its rights as a neutral to any of the present belligerents. It has acknowledged, as a matter of course, the right of visit and search and the right to apply the rules of contraband of war to articles of commerce. It has, indeed, insisted upon the use of visit and search as an absolutely necessary safeguard against mistaking neutral vessels for vessels owned by an enemy and against mistaking legal cargoes for illegal. It has admitted, also, the right of blockade if actually exercised and effectively maintained. These are merely the well-known limitations which war places upon neutral commerce on the high seas. But nothing beyond these has it conceded. I call your excellency's attention to this, notwithstanding it is already known to all the world as a consequence of the publication of our correspondence in regard to these matters with several

of the belligerent nations, because I can not assume that you have official cognizance of it.

In the second place, this Government attempted to secure from the German and British Governments mutual concessions with regard to the measures those Governments respectively adopted for the interruption of trade on the high seas. This it did, not of right, but merely as exercising the privileges of a sincere friend of both parties and as indicating its impartial good will. The attempt was unsuccessful; but I regret that your excellency did not deem it worthy of mention in modification of the impressions you expressed. We had hoped that this act on our part had shown our spirit in these times of distressing war, as our diplomatic correspondence had shown our steadfast refusal to acknowledge the right of any belligerent to alter the accepted rules of war at sea in so far as they affect the rights and interests of neutrals.

In the third place, I note with sincere regret that, in discussing the sale and exportation of arms by citizens of the United States to the enemies of Germany, your excellency seems to be under the impression that it was within the choice of the Government of the United States notwithstanding its professed neutrality and its diligent efforts to maintain it in other particulars, to inhibit this trade, and that its failure to do so manifested an unfair attitude toward Germany. This Government holds, as I believe your excellency is aware, and as it is constrained to hold in view of the present indisputable doctrines of accepted international law, that any change in its own laws of neutrality during the progress of a war which would affect unequally the relations of the United States with the nations at war would be an unjustifiable departure from the principle of strict neutrality by which it has consistently sought to direct its actions, and I respectfully submit that none of the circumstances urged in your excellency's memorandum alters the principle involved. The placing of an embargo on the trade in arms at the present time would constitute such a change and be a direct violation of the neutrality of the United States. It will, I feel assured, be clear to your excellency that, holding this view and considering itself in honor bound by it, it is out of the question for this Government to consider such a course.

I hope that your excellency will realize the spirit in which I am drafting this reply. The friendship between the people of the United States and the people of Germany is so warm and of such long standing, the ties which bind them to one another in amity are so many and so strong, that this Government feels under a special compulsion to speak with perfect frankness when any occasion arises which seems likely to create any misunderstanding, however slight or temporary, between those who represent the Governments of the two countries. It will be a matter of gratification to me if I have removed from your excellency's mind any misapprehension you may have been under regarding either the policy or the spirit and purposes of the Government of the United States. Its neutrality is founded upon the firm basis of conscience and good will.

Accept, etc.,

W. J. BRYAN.

(Dip. Corr. 74–75.)

On April 28 a German aeroplane attacked an American vessel, the *Cushing*, off the Dutch coast. On May 1 another American vessel, the *Gulflight*, was torpedoed off the Scilly Islands, with a loss of two lives. The German Government issued an apology and offered reparation in case the *Cushing* had been attacked by an aeroplane.

On March 28 Leon T. Thrasher, an American citizen, lost his life by the destruction of the English steamship *Falaba* by a German torpedo. This case involved the rights of an American noncombatant on a belligerent unarmed merchantman.

These items do not come under the submarine controversy, but are evidence of the restraints of naval warfare on neutral rights which preceded the submarine activities.

On June 1 the following was sent by Germany:

THE MINISTER FOR FOREIGN AFFAIRS TO THE AMERICAN AMBASSADOR.

Referring to the note of May 28, the undersigned has the honor to inform his excellency the American (*sic*) ambassador of the United States of America, Mr. James W. Gerard, that the examination undertaken on the part of the German Government concerning the American steamer *Gulflight* and *Cushing* has led to the following conclusions:

In regard to the attack on the steamer *Gulflight*, the commander of a German submarine saw on the afternoon of May 1, in the vicinity of the Scilly Islands, a large merchant steamer coming in his direction which was accompanied by two smaller vessels. These latter took such position in relation to the steamer that they formed a regulation safeguard against submarines; moreover, one of them had a wireless apparatus, which is not usual with small vessels. From this it evidently was a case of English convoy vessels. Since such vessels are frequently armed, the submarine could not approach the steamer on the surface of the water without running the danger of destruction. It was, on the other hand, to be assumed that the steamer was of considerable value to the British Government, since it was so guarded. The commander could see no neutral markings on it of any kind—that is, distinctive marks painted on the freeboard recognizable at a distance, such as are now usual on neutral ships in the English zone of naval warfare. In consequence he arrived at the conclusion from all the circumstances that he had to deal with an English steamer, submerged, and attacked.

The torpedo came in the immediate neighborhood of one of the convoy ships, which at once rapidly approached the point of firing; that the submarine was forced to go to a great depth to avoid being rammed. The conclusion of the commander that an English convoy ship was concerned was in this way confirmed. That the attacked steamer carried the American flag was first observed at the moment of firing the shot. The fact that the steamship was pursuing a course which led neither to nor from America was a further reason why it did not occur to the commander of the submarine that he was dealing with an American steamship.

Upon scrutiny of the time and place of the occurrence described, the German Government has become convinced that the attacked steamship was actually the American steamship *Gulflight.* There can be no doubt, according to the attendant circumstances, that the attack is to be attributed to an unfortunate accident, and not to the fault of the commander. The German Government expresses its regrets to the Government of the United States concerning this incident, and declares itself ready to furnish full recompense for the damage thereby sustained by American citizens. It is left to the discretion of the American Government to present a statement of this damage, or, if doubt may arise over individual points, to designate an expert who would have to determine, together with a German expert, the amount of damage.

It has not yet been possible by means of an inquiry to clear up fully the case of the American ship *Cushing.* Official reports available report only one merchant ship attacked by a German flying machine in the vicinity of Nordhind Lightship. The German aviator was forced to consider the vessel as hostile because it carried no flag, and, further, because of no recognizable neutral markings. The attack of four bombs was, of course, not aimed at any American ship.

However, that the ship attacked was the American steamer *Cushing* is possible, considering the time and place of the occurrence. Nevertheless the German Government accordingly requests of the American Government that it communicate to the German Government the material which was submitted for judgment, in order that, with this as a basis, a further position can be taken in the matter.

The undersigned leaves it to the ambassador to bring the foregoing to the immediate attention of this Government, and takes this opportunity to renew to him the assurance of his most distinguished consideration.

VON JAGOW,
Minister for Foreign Affairs.

[The New York Times, June 5, 1915.]

On April 22 the Imperial German Embassy published a warning against embarkation on vessels belonging to Great Britain or her allies:

NOTICE.

Travelers intending to embark on the Atlantic voyage are reminded that a state of war exists between Germany and her allies and Great Britain and her allies; that the zone of war includes the waters adjacent the British Isles; that, in accordance with formal notice given by the Imperial German Government, vessels flying the flag of Great Britain, or of any of her allies, are liable to destruction in those waters, and that travelers sailing in the war zone on ships of Great Britain or her allies do so at their own risk.

IMPERIAL GERMAN EMBASSY.

On May 7 the *Lusitania* was struck, with its frightful consequences. Three days later the German note expressing regret for the loss of American lives through the sinking of the *Lusitania:*

THE GERMAN FOREIGN OFFICE TO THE GERMAN EMBASSY AT WASHINGTON.

Please communicate the following to the State Department: The German Government desires to express its deepest sympathy at the loss of lives on board the *Lusitania*. The responsibility rests, however, with the British Government, which, through its plan of starving the civilian population of Germany, has forced Germany to resort to retaliatory measures.

In spite of the German offer to stop the submarine war in case the starvation plan was given up, British merchant vessels are being generally armed with guns and have repeatedly tried to ram submarines, so that a previous search was impossible.

They can not, therefore, be treated as ordinary merchant vessels. A recent declaration made to the British Parliament by the parliamentary secretary in answer to a question by Lord Charles Beresford said that at the present practically all British merchant vessels were armed and provided with hand grenades.

Besides, it has been openly admitted by the English press that the *Lusitania* on previous voyages repeatedly carried large quantities of war material. On the present voyage the *Lusitania* carried 5,400 cases of ammunition, while the rest of her cargo also consisted chefly of contraband.

If England, after repeated official and unofficial warnings, considered herself able to declare that that boat ran no risk and thus lightheartedly assumed responsibility for the human life on board a steamer which, owing to its armament and cargo, was liable to destruction, the German Government, in spite of its heartfelt sympathy for the loss of American lives, can not but regret that Americans felt more inclined to trust to English promises rather than to pay attention to the warnings from the German side.

FOREIGN OFFICE.

The next day Germany made a statement in regard to the treatment of neutral vessels in the war zone:

THE GERMAN MINISTER FOR FOREIGN AFFAIRS TO THE AMERICAN AMBASSADOR.

First. The Imperial German Government has naturally no intention of causing to be attacked by submarines or aircraft such neutral ships of commerce in the zone of naval warfare, more definitely described in the notice of the German Admiralty staff of February 4 last, as have been guilty of no hostile act. On the contrary, the most definite instructions have repeatedly been issued to German war vessels to avoid attacks on such ships under all circumstances. Even when such ships have contraband of war on board they are dealt with by submarines solely according to the rules of international law applying to prize warfare.

Second. Should a neutral ship nevertheless come to harm through German submarines or aircraft on account of an unfortunate (X) [mistake?] in the above-mentioned zone of naval warfare, the German Government will unreservedly recognize its responsibility therefor. In such a case it will express its regrets and afford damages without first instituting a prize-court action.

Third. It is the custom of the German Government as soon as the sinking of a neutral ship in the above-mentioned zone of naval warfare is ascribed to German war vessels to institute an immediate investigation into the cause. If grounds appear thereby to be given for association of such a hypothesis, the German Navy places itself in communication with the interested neutral Government, so that the latter may also institute an investigation. If the German Government is thereby convinced that the ship has been destroyed by Germany's war vessels it will not delay in carrying out the provisions of paragraph 2 above. In case the German Government, contrary to the viewpoint of the neutral Government, is not convinced by the result of the investigation, the German Government has already on several occasions declared itself ready to allow the question to be decided by an international investigation commission, according to chapter 3 of The Hague Convention of October 18, 1907, for the peaceful solution of international disputes. (The New York Times, May 12, 1915.)

Two days later, May 13, our Government sent the first note on the *Lusitania* case. This was the famous "omit no word or act" declaration:

THE SECRETARY OF STATE TO THE AMERICAN AMBASSADOR AT BERLIN.

Please call on the Minister of Foreign Affairs and after reading to him this communication leave with him a copy.

In view of recent acts of the German authorities in violation of American rights on the high seas which culminated in the torpedoing and sinking of the British steamship *Lusitania* on May 7, 1915, by which over 100 American citizens lost their lives, it is clearly wise and desirable that the Government of the United States and the Imperial German Government should come to a clear and full understanding as to the grave situation which has resulted.

The sinking of the British passenger steamer *Falaba* by a German submarine on March 28, through which Leon C. Thrasher, an American citizen, was drowned; the attack, on April 28, on the American vessel *Cushing* by a German aeroplane; the torpedoing on May 1 of the American vessel *Gulflight* by a German submarine, as a result of which two or more American citizens met their death; and, finally, the torpedoing and sinking of the steamship *Lusitania*, constitute a series of events which the Government of the United States has observed with growing concern, distress, and amazement.

Recalling the humane and enlightened attitude hitherto assumed by the Imperial German Government in matters of international right, and particularly with regard to the freedom of the seas; having learned to recognize the German views and the German influence in the field of international obligation as always engaged upon the side of justice and humanity; and having understood the instructions of the Imperial German Government to its naval commanders to be upon the same plane of humane action prescribed by the naval codes of other nations, the Government of the United States was loath to believe—it can not now bring itself to believe—that these acts, so absolutely contrary to the rules, the practices, and the spirit of modern warfare, could have the countenance or sanction of that great Government. It feels it to be its duty, therefore, to address

the Imperial German Government concerning them with the utmost frankness and in the earnest hope that it is not mistaken in expecting action on the part of the Imperial German Government which will correct the unfortunate impressions which have been created and vindicate once more the position of that Government with regard to the sacred freedom of the seas.

The Government of the United States has been apprised that the Imperial German Government considered themselves to be obliged by the extraordinary circumstances of the present war and the measures adopted by their adversaries in seeking to cut Germany off from all commerce, to adopt methods of retaliation which go much beyond the ordinary methods of warfare at sea, in the proclamation of a war zone from which they have warned neutral ships to keep away. This Government has already taken occasion to inform the Imperial German Government that it can not admit the adoption of such measures or such a warning of danger to operate as in any degree an abbreviation of the rights of American shipmasters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality; and that it must hold the Imperial German Government to a strict accountability for any infringement of those rights, intentional or incidental. It does not understand the Imperial German Government to question those rights. It assumes, on the contrary, that the Imperial Government accept, as of course, the rule that the lives of noncombatants, whether they be of neutral citizenship or citizens of one of the nations at war, can not lawfully or rightfully be put in jeopardy by the capture or destruction of an unarmed merchantman, and recognize also, as all other nations do, the obligation to take the usual precaution of visit and search to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag.

The Government of the United States, therefore, desires to call the attention of the Imperial German Government with the utmost earnestness to the fact that the objection to their present method of attack against the trade of their enemies lies in the practical impossibility of employing submarines in the destruction of commerce without disregarding those rules of fairness, reason, justice, and humanity which all modern opinion regards as imperative. It is practically impossible for the officers of a submarine to visit a merchantman at sea and examine her papers and cargo. It is practically impossible for them to make a prize of her; and, if they can not put a prize crew on board of her, they can not sink her without leaving her crew and all on board of her to the mercy of the sea in her small boats. These facts, it is understood, the Imperial German Government frankly admit. We are informed that in the instances of which we have spoken time enough for even that poor measure of safety was not given, and in at least two of the cases cited not so much as a warning was received. Manifestly, submarines can not be used against merchantmen, as the last few weeks have shown, without an inevitable violation of many sacred principles of justice and humanity.

American citizens act within their indisputable rights in taking their ships and in traveling wherever their legitimate business calls them upon the high seas, and exercise those rights in what should be

the well-justified confidence that their lives will not be endangered by acts done in clear violation of universally acknowledged international obligations, and certainly in the confidence that their own Government will sustain them in the exercise of their rights.

There was recently published in the newspapers of the United States, I regret to inform the Imperial German Government, a formal warning, purporting to come from the Imperial German Embassy at Washington, addressed to the people of the United States, and stating, in effect, that any citizen of the United States who exercised his right of free travel upon the seas would do so at his peril if his journey should take him within the zone of waters within which the Imperial German Navy was using submarines against the commerce of Great Britain and France, notwithstanding the respectful but very earnest protest of his Government, the Government of the United States. I do not refer to this for the purpose of calling the attention of the Imperial German Government at this time to the surprising irregularity of a communication from the Imperial German Embassy at Washington addressed to the people of the United States through the newspapers, but only for the purpose of pointing out that no warning that an unlawful and inhumane act will be committed can possibly be accepted as an excuse or palliation for that act or as an abatement of the responsibility for its commission.

Long acquainted as this Government has been with the character of the Imperial German Government and with the high principles of equity by which they have in the past been accentuated and guided, the Government of the United States can not believe that the commanders of the vessels which committed these acts of lawlessness did so except under a misapprehension of the orders issued by the Imperial German naval authorities. It takes it for granted that, at least within the practical possibilities of every such case, the commanders even of submarines were expected to do nothing that would involve the lives of noncombatants or the safety of neutral ships, even at the cost of failing of their object of capture or destruction. It confidently expects, therefore, that the Imperial German Government will disavow the acts of which the Government of the United States complains; that they will make reparation so far as reparation is possible for injuries which are without measure; and that they will take immediate steps to prevent the recurrence of anything so obviously subversive of the principles of warfare for which the Imperial German Government have in the past so wisely and so firmly contended.

The Government and people of the United States look to the Imperial German Government for just, prompt, and enlightened action in this vital matter with the greater confidence because the United States and Germany are bound together not only by special ties of friendship but also by the explicit stipulations of the treaty of 1828 between the United States and the Kingdom of Prussia.

Expressions of regret and offers of reparation in case of the destruction of neutral ships sunk by mistake, while they may satisfy international obligations, if no loss of life results, can not justify or excuse a practice the natural and necessary effect of which is to subject neutral nations and neutral persons to new and immeasurable risks.

The Imperial German Government will not expect the Government of the United States to omit any word or any act necessary to the performance of its sacred duty of maintaining the rights of the United States and its citizens and of safeguarding their free exercise and enjoyment.

BRYAN.

On May 28 the first German note on the *Lusitania* case was transmitted to our Government. This note did not admit the right of Americans on the merchantman and made no offer for reparation:

THE MINISTER FOR FOREIGN AFFAIRS TO THE AMERICAN AMBASSADOR.

The undersigned has the honor to make the following reply to the note of his excellency, Mr. James W. Gerard, ambassador of the United States of America, dated the 15th instant, on the subject of the impairment of many American interests by the German submarine war.

The Imperial Government has subjected the statements of the Government of the United States to a careful examination, and has the lively wish on its part also to contribute in a convincing and friendly manner to clear up any misunderstandings which may have entered into the relations of the two Governments through the events mentioned by the American Government.

With regard, firstly, to the cases of the American steamers *Cushing* and *Gulflight*, the American Embassy has already been informed that it is far from the German Government to have any intention of ordering attacks by submarines or flyers on neutral vessels in the zone which have not been guilty of any hostile act; on the contrary, the most explicit instructions have been repeatedly given the German armed forces to avoid attacking such vessels. If neutral vessels have come to grief through the German submarine war during the past few months by mistake, it is a question of isolated and exceptional cases, which are traceable to the misuse of flags by the British Government in connection with carelessness or suspicious actions on the part of the captains of the vessels. In all cases where a neutral vessel, through no fault of its own, has come to grief through the German submarine or flyers, according to the facts as ascertained by the German Government, this Government has expressed its regret at the unfortunate occurrence and promised indemnification where the facts justified it. The German Government will treat the cases of the American steamers *Cushing* and *Gulflight* according to the same principles. An investigation of these cases is in progress. Its results will be communicated to the embassy shortly. The investigation might, if thought desirable, be supplemented by an international commission of inquiry, pursuant to title 3 of The Hague convention of October 18, 1907, for the pacific settlement of international disputes.

In the case of the sinking of the English steamer *Falaba* the commander of the German submarine had the intention of allowing passengers and crew ample opportunity to save themselves.

It was not until the captain disregarded the order to lay to and took to flight, sending up rocket signals for help, that the German

commander ordered the crew and passengers, by signals and megaphone, to leave the ship within 10 minutes. As a matter of fact, he allowed them 23 minutes, and did not fire the torpedo until suspicious steamers were hurrying to the aid of the *Falaba*.

With regard to the loss of life when the British passenger steamer *Lusitania* was sunk, the German Government has already expressed its deep regret to the neutral Governments concerned that nationals of those countries lost their lives on that occasion. The Imperial Government must state for the rest the impression that certain important facts most directly connected with the sinking of the *Lusitania* may have escaped the attention of the Government of the United States. It therefore considers it necessary, in the interest of the clear and full understanding aimed at by either Government, primarily to convince itself that the reports of the facts which are before the two Governments are complete and in agreement.

The Government of the United States proceeds on the assumption that the *Lusitania* is to be considered as an ordinary unarmed merchant vessel. The Imperial Government begs in this connection to point out that the *Lusitania* was one of the largest and fastest English commerce steamers, costructed with Government funds as auxiliary cruisers, and is expressly included in the navy list published by British Admiralty. It is, moreover, known to the Imperial Government, from reliable information furnished by its officials and neutral passengers, that for some time practically all the more valuable English merchant vessels have been provided with guns, ammunition, and other weapons and reinforced with a crew specially practiced in manning guns. According to reports at hand here, the *Lusitania*, when she left New York, undoubtedly had guns on board which were mounted under decks and masked.

The Imperial Government furthermore has the honor to direct the particular attention of the American Government to the fact that the British Admiralty, by a secret instruction of February of this year, advised the British merchant marine not only to seek protection behind neutral flags and markings, but even when so disguised to attack German submarines by ramming them. High rewards have been offered by the British Government as a special incentive for the destruction of the submarines by merchant vessels, and such rewards have already been paid out. In view of these facts, which are satisfactorily known to it, the Imperial Government is unable to consider English merchant vessels any longer as "undefended territory" in the zone of maritime war designated by the Admiralty staff of the Imperial German Navy. The German commanders are consequently no longer in a position to observe the rules of capture otherwise usual and with which they invariably complied before this. Lastly, the Imperial Government must specially point out that on her last trip the *Lusitania*, as on earlier occasions, had Canadian troops and munitions on board, including no less than 5,400 cases of ammunition destined for the destruction of brave German soldiers who are fulfilling with self-sacrifice and devotion their duty in the service of the Fatherland. The German Government believes that it acts in just self-defense when it seeks to protect the lives of its soldiers by destroying ammunition destined for the enemy with the means of war at its command. The English steamship company must have been aware of the dangers to which passengers on board the *Lusitania*

were exposed under the circumstances. In taking them on board in spite of this the company quite deliberately tried to use the lives of American citizens as protection for the ammunition carried and violated the clear provisions of American laws which expressly prohibit and provide punishment for the carrying of passengers on ships which have explosives on board. The company thereby wantonly caused the death of so many passengers. According to the express report of the submarine commander concerned, which is further confirmed by all other reports, there can be no doubt that the rapid sinking of the *Lusitania* was primarily due to the explosion of the cargo of ammunition caused by the torpedo. Otherwise, in all human probability, the passengers of the *Lusitania* would have been saved.

The Imperial Government holds the facts recited above to be of sufficient importance to recommend them to a careful examination by the American Government. The Imperial Government begs to reserve a final statement of its position with regard to the demands made in connection with the sinking of the *Lusitania* until a reply is received from the American Government, and believe that it should recall here that it took note with satisfaction of the proposals of good offices submitted by the American Government in Berlin and London with a view to paving the way for a modus vivendi for the conduct of maritime war between Germany and Great Britain. The Imperial Government furnished at that time ample evidence of its good will by its willingness to consider these proposals. The realization of these proposals failed, as is known, on account of their rejection by the Government of Great Britain.

The undersigned requests his excellency, the ambassador, to bring the above to the knowledge of the American Government, and avails himself of the opportunity to renew, etc.

VON JAGOW.

On June 9 the American Government sent a second note on the *Lusitania* case. This note was the occasion for the resignation of Mr. Bryan and the promotion of Mr. Lansing:

THE SECRETARY OF STATE AD INTERIM TO THE AMERICAN AMBASSADOR AT BERLIN.

You are instructed to deliver textually the following note to the minister of foreign affairs:

In compliance with your excellency's request I did not fail to transmit to my Government immediately upon their receipt your note of May 28, in reply to my note of May 15, and your supplementary note of June 1, setting forth the conclusions, so far as reached by the Imperial German Government, concerning the attacks on the American steamers *Cushing* and *Gulflight*. I am now instructed by my Government to communicate the following in reply:

The Government of the United States notes with gratification the full recognition by the Imperial German Government, in discussing the cases of the *Cushing* and the *Gulflight*, of the principle of the freedom of all parts of the open sea to neutral ships and the frank willingness of the Imperial German Government to acknowledge and meet its liability where the fact of attack upon neutral ships

" which have not been guilty of any hostile act " by German aircraft or vessels of war is satisfactorily established; and the Government of the United States will in due course lay before the Imperial German Government, as it requests, full information concerning the attack on the steamer *Cushing*.

With regard to the sinking of the steamer *Falaba*, by which an American citizen lost his life, the Government of the United States is surprised to find the Imperial German Government contending that an effort on the part of the merchantman to escape capture and secure assistance alters the obligation of the officer seeking to make the capture in respect of the safety of the lives of those on board the merchantman, although the vessel had ceased her attempt to escape when torpedoed. These are not new circumstances. They have been in the minds of statesmen and of international jurists throughout the development of naval warfare, and the Government of the United States does not understand that they have ever been held to alter the principles of humanity upon which it has insisted. Nothing but actual forcible resistance or continued efforts to escape by flight when ordered to stop for the purpose of visit on the part of the merchantman has ever been held to forfeit the lives of her passengers or crew. The Government of the United States, however, does not understand that the Imperial German Government is seeking in this case to relieve itself of liability, but only intends to set forth the circumstances which led the commander of the submarine to allow himself to be hurried into the course which he took.

Your excellency's note, in discussing the loss of American lives resulting from the sinking of the steamship *Lusitania*, adverts at some length to certain information which the Imperial German Government has received with regard to the character and outfit of that vessel, and your excellency expresses the fear that this information may not have been brought to the attention of the Government of the United States.

It is stated in the note that the *Lusitania* was undoubtedly equipped with masked guns, supplied with trained gunners and special ammunition, transporting troops from Canada, carrying a cargo not permitted under the laws of the United States to a vessel also carrying passengers, and serving in virtual effect as an auxiliary to the naval forces of Great Britain. Fortunately these are matters concerning which the Government of the United States is in a position to give the Imperial German Government official information. Of the facts alleged in your excellency's note, if true, the Government of the United States would have been bound to take official cognizance in performing its recognized duty as a neutral power and in enforcing its national laws. It was its duty to see to it that the *Lusitania* was not armed for offensive action; that she was not serving as a transport; that she did not carry a cargo prohibited by the statutes of the United States; and that if in fact she was a naval vessel of Great Britain she should not receive clearance as a merchantman; and it performed that duty and enforced its statutes with scrupulous vigilance through its regularly constituted officials. It is able, therefore, to assure the Imperial Germany Government that it has been misinformed. If the Imperial German Government should deem itself to be in possession of convincing evidence that the officials of the Government of the United States

did not perform these duties with thoroughness, the Government of the United States sincerely hopes that it will submit that evidence for consideration.

Whatever may be the contention of the Imperial German Government regarding the carriage of contraband of war on board the *Lusitania* or regarding the explosion of that material by the torpedo, it need only be said that in the view of this Government these contentions are irrelevant to the question of the legality of the methods used by the German naval authorities in sinking the vessel.

But the sinking of passenger ships involves principles of humanity which throw into the background any special circumstances of detail that may be thought to affect the cases, principles which lift it, as the Imperial German Government will no doubt be quick to recognize and acknowledge, out of the class of ordinary subjects of diplomatic discussion or of international controversy. Whatever be the other facts regarding the *Lusitania*, the principal fact is that a great steamer, primarily and chiefly a conveyance for passengers, and carrying more than a thousand souls who had no part or lot in the conduct of the war, was torpedoed and sunk without so much as a challenge or a warning, and that men, women, and children were sent to their death in circumstances unparalleled in modern warfare. The fact that more than 100 American citizens were among those who perished made it the duty of the Government of the United States to speak of these things and once more, with solemn emphasis, to call the attention of the Imperial German Government to the grave responsibility which the Government of the United States conceives that it has incurred in this tragic occurrence, and to the indisputable principle upon which that responsibility rests. The Government of the United States is contending for something much greater than mere rights of property or privileges of commerce. It is contending for nothing less high and sacred than the rights of humanity, which every Government honors itself in respecting and which no Government is justified in resigning on behalf of those under its care and authority. Only her actual resistance to capture or refusal to stop when ordered to do so for the purpose of visit could have afforded the commander of the submarine any justification for so much as putting the lives of those on board the ship in jeopardy. This principle the Government of the United States understands the explicit instructions issued on August 3, 1914, by the Imperial German Admiralty to its commanders at sea to have recognized and embodied, as do the naval codes of all other nations, and upon it every traveler and seaman had a right to depend. It is upon this principle of humanity as well as upon the law founded upon this principle that the United States must stand.

The Government of the United States is happy to observe that Your Excellency's note closes with the intimation that the Imperial German Government is willing, now as before, to accept the good offices of the United States in an attempt to come to an understanding with the Government of Great Britain by which the character and conditions of the war upon the sea may be changed. The Government of the United States would consider it a privilege thus to serve its friends and the world. It stands ready at any time to convey to either Government any intimation or suggestion the other may be willing to have it convey, and cordially invites the Imperial Ger-

man Government to make use of its services in this way at its convenience. The whole world is concerned in anything that may bring about even a partial accommodation of interests or in any way mitigate the terrors of the present distressing conflict.

In the meantime, whatever arrangement may happily be made between the parties to the war, and whatever may in the opinion of the Imperial German Government have been the provocation or the circumstantial justification for the past acts of its commanders at sea, the Government of the United States confidently looks to see the justice and humanity of the Government of Germany vindicated in all cases where Americans have been wronged or their rights as neutrals invaded.

The Government of the United States therefore very earnestly and very solemnly renews the representations of its note transmitted to the Imperial German Government on the 15th of May, and relies in these representations upon the principles of humanity, the universally recognized understandings of international law, and the ancient friendship of the German Nation.

The Government of the United States can not admit that the proclamation of a war zone from which neutral ships have been warned to keep away may be made to operate as in any degree an abbreviation of the rights either of American shipmasters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality. It does not understand the Imperial German Government to question those rights. It understands also it to accept as established beyond question the principle that the lives of noncombatants can not lawfully or rightfully be put in jeopardy by the capture or destruction of an unresisting merchantman, and to recognize the obligation to take sufficient precaution to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag. The Government of the United States, therefore, deems it reasonable to expect that the Imperial German Government will adopt the measures necessary to put these principles into practice in respect of the safeguarding of American lives and American ships, and asks for assurances that this will be done.

ROBERT LANSING.

On July 8 the German Government sent a second note on the *Lusitania*, in which she declined to admit responsibility for loss of American lives on the merchantman and suggested "free and safe" passage under certain specified conditions:

THE MISISTER FOR FOREIGN AFFAIRS TO THE AMERICAN AMBASSADOR.

The undersigned has the honor to make the following reply to his excellency Ambassador Gerard to the note of the 10th ultimo re the impairment of American interests by the German submarine war:

The Imperial Government learned with satisfaction from the note how earnestly the Government of the United States is concerned in seeing the principles of humanity realized in the present war. Also this appeal finds ready echo in Germany, and the Imperial Government is quite willing to permit its statements and decisions in the

present case to be governed by the principles of humanity just as it has done always.

The Imperial Government welcomed with gratitude when the American Government, in the note of May 15, itself recalled that Germany had always permitted itself to be governed by the principles of progress and humanity in dealing with the law of maritime war.

Since the time when Frederick the Great negotiated with John Adams, Benjamin Franklin, and Thomas Jefferson the treaty of friendship and commerce of September 9, 1785, between Prussia and the Republic of the West, German and American statesmen have, in fact, always stood together in the struggle for the freedom of the seas and for the protection of peaceable trade.

In the international proceedings which since have been conducted for the regulation of the laws of maritime war Germany and America have jointly advocated progressive principles, especially the abolishment of the right of capture at sea and the protection of the interests of neutrals.

Even at the beginning of the present war the German Government immediately declared its willingness, in response to proposals of the American Government, to ratify the declaration of London and thereby subject itself in the use of its naval forces to all the restrictions provided therein in favor of neutrals.

Germany likewise has been always tenacious of the principle that war should be conducted against the armed and organized forces of an enemy country, but that the enemy civilian population must be spared as far as possible from the measures of war. The Imperial Government cherishes the definite hope that some way will be found when peace is concluded, or perhaps earlier, to regulate the law of maritime war in a manner guaranteeing the freedom of the seas, and will welcome it with gratitude and satisfaction if it can work hand in hand with the American Government on that occasion.

If in the present war the principles which should be the ideal of the future have been traversed more and more, the longer its duration, the German Government has no guilt therein. It is known to the American Government how Germany's adversaries, by completely paralyzing peaceable traffic between Germany and neutral countries, have aimed from the very beginning and with increasing lack of consideration at the destruction not so much of the armed forces as the life of the German nation, repudiating in doing so all the rules of international law and disregarding all rights of neutrals.

On November 3, 1914, England declared the North Sea a war area, and by planting poorly anchored mines and by the stoppage and capture of vessels, made passage extremely dangerous and difficult for neutral shipping, thereby actually blockading neutral coasts and ports, contrary to all international law. Long before the beginning of submarine war England practically completely intercepted legitimate neutral navigation to Germany also. Thus Germany was driven to a submarine war on trade.

On November 14, 1914, the English premier declared in the House of Commons that it was one of England's principal tasks to prevent food for the German population from reaching Germany via neutral ports. Since March 1 England has been taking from neutral ships

without further formality all merchandise proceeding to Germany as well as all merchandise coming from Germany, even when neutral property. Just as it was also with the Boers, the German people is now to be given the choice of perishing from starvation with its women and children or of relinquishing its independence.

While our enemies thus loudly and openly proclaimed war without mercy until our utter destruction, we were conducing a war in self-defense for our national existence and for the sake of peace of an assured permanency. We have been obliged to adopt a submarine warfare to meet the declared intentions of our enemies and the method of warfare adopted by them in contravention of international law.

With all its efforts in principle to protect neutral life and property from damage as much as possible, the German Government recognizes unreservedly in its memorandum of February 4 that the interests of neutrals might suffer from the submarine warfare. However, the American Government will also understand and appreciate that in the fight for existence, which has been forced upon Germany by its adversaries and announced by them, it is the sacred duty of the Imperial Government to do all within its power to protect and save the lives of German subjects. If the Imperial Government were derelict in these its duties, it would be guilty before God and history of the violation of those principles of highest humanity which are the foundation of every national existence.

The case of the *Lusitania* shows with horrible clearness to what jeopardizing of human lives the manner of conducting war employed by our adversaries leads. In the most direct contradiction of international law all distinctions between merchantmen and war vessels have been obliterated by the order to British merchantmen to arm themselves and to ram submarines, and the promise of rewards therefor, and neutrals who use merchantmen as travelers thereby have been exposed in an increasing degree to all the dangers of war.

If the commander of the German submarine which destroyed the *Lusitania* had caused the crew and passengers to take to the boats before firing a torpedo, this would have meant the sure destruction of his own vessel. After the experiences in sinking much smaller and less seaworthy vessels it was to be expected that a mighty ship like the *Lusitania* would remain above water long enough, even after the torpedoing, to permit passengers to enter the ship's boats. Circumstances of a very peculiar kind, especially the presence on board of large quantities of highly explosive materials, defeated this expectation.

In addition, it may be pointed out that if the *Lusitania* had been spared, thousands of cases of munitions would have been sent to Germany's enemies and thereby thousands of German mothers and children robbed of breadwinners.

In the spirit of friendship wherewith the German nation has been imbued toward the Union (United States) and its inhabitants since the earliest days of its existence, the Imperial Government will always be ready to do all it can during the present war also to prevent the jeopardizing of lives of American citizens.

The Imperial Government, therefore, repeats the assurances that American ships will not be hindered in the prosecution of legitimate

shipping and the lives of American citizens in neutral vessels shall not be placed in jeopardy.

In order to exclude any unforseen dangers to American passenger steamers, made possible in view of the conduct of maritime war by Germany's adversaries, German submarines will be instructed to permit the free and safe passage of such passenger steamers when made recognizable by special markings and notified a reasonable time in advance. The Imperial Government, however, confidently hopes that the American Government will assume to guarantee that these vessels have no contraband on board, details of arrangements for the unhampered passage of these vessels to be agreed upon by the naval authorities of both sides.

In order to furnish adequate facilities for travel across the Atlantic for American citizens, the German Government submits for consideration a proposal to increase the number of available steamers by installing in passenger service a reasonable number of neutral steamers under the American flag, the exact number to be agreed upon under the same condition as the above-mentioned American steamers.

The Imperial Government believes it can assume that in this manner adequate facilities for travel across the Atlantic Ocean can be afforded American citizens. There would, therefore, appear to be no compelling necessity for American citizens to travel to Europe in time of war on ships carrying an enemy flag. In particular the Imperial Government is unable to admit that American citizens can protect an enemy ship through the mere fact of their presence on board.

Germany merely followed England's example when she declared part of the high seas an area of war. Consequently, accidents suffered by neutrals on enemy ships in this area of war can not well be judged differently from accidents to which neutrals are at all times exposed at the seat of war on land, when they betake themselves into dangerous localities in spite of previous warnings. If, however, it should not be possible for the American Government to acquire an adequate number of neutral passenger steamers, the Imperial Government is prepared to interpose no objections to the placing under the American flag by the American Government of four enemy passenger steamers for passenger traffic between North America and England. Assurances of "free and safe" passage for American passenger steamers would then extend to apply under the identical preconditions to these formerly hostile passenger steamers.

The President of the United States has declared his readiness, in a way deserving of thanks, to communicate and suggest proposals to the Government of Great Britain with particular reference to the alteration of the maritime war. The Imperial Government will always be glad to make use of the good offices of the President, and hopes that his efforts in the present case, as well as in the direction of the lofty ideal of the freedom of the seas, will lead to an understanding.

The undersigned requests the ambassador to bring the above to the knowledge of the American Government, and avails himself of the opportunity to renew to his excellency the assurance of his most distinguished consideration.

VON JAGOW.

The submarine situation was for the moment made more acute by the attack upon the American steamer *Nebraskan* on May 21.

July 15 the German Government submitted the following memorandum:

THE MINISTER FOR FOREIGN AFFAIRS TO THE AMERICAN AMBASSADOR.

The German Government received from newspaper reports the intelligence that the American steamer *Nebraskan* had been damaged by a mine or torpedo on the southwest coast of Ireland. It therefore started a thorough investigation of the case without delay, and from the result of the investigation it has become convinced that the damage to the *Nebraskan* was caused by an attack by a submarine.

On the evening of May 25 last the submarine met a steamer bound westward without a flag and no neutral markings on her freeboard, about 65 nautical miles west of Fastnet Rock. No appliance of any kind for the illumination of the flag or markings was to be seen. In the twilight, which had already set in, the name of the steamer was not visible from the submarine. Since the commander of the submarine was obliged to assume from his wide experience in the area of maritime war that only English steamers, and no neutral steamers, traversed the war area without flag and markings, he attacked the vessel with a torpedo, in the conviction that he had an enemy vessel before him. Some time after the shot the commander saw that the vessel had in the meantime hoisted the American flag. As a consequence he, of course, refrained from any further attack. Since the vessel remained afloat, he had no occasion to concern himself further with the boats which had been launched.

It results from this that, without a doubt, that attack on the steamer *Nebraskan* was not meant for the American flag, nor is it traceable to any fault on the part of the commander of the German submarine, but is to be considered an unfortunate accident. The German Government expresses its regret at the occurrence to the Government of the United States of America and declares its readiness to make compensation for the damage thereby sustained by American citizens. (The New York Times, July 16, 1915.)

The third American note on the *Lusitania* case was sent July 21, in which Germany's proposals of last note were rejected. This is the "deliberately unfriendly" declaration in which the specific language quoted February 3, 1917, by the President occurs:

THE SECRETARY OF STATE TO THE AMERICAN AMBASSADOR AT BERLIN.

You are instructed to deliver textually the following note to the minister for foreign affairs:

The note of the Imperial German Government, dated the 8th of July, 1915, has received the careful consideration of the Government of the United States, and it regrets to be obliged to say that it has found it very unsatisfactory, because it fails to meet the real differences between the two Governments, and indicates no way in which the accepted principles of law and humanity may be applied in the grave matter in controversy, but proposes, on the contrary, arrange-

ments for a partial suspension of those principles which virtually set them aside.

The Government of the United States notes with satisfaction that the Imperial German Government recognizes without reservation the validity of the principles insisted on in the several communications which this Government has addressed to the imperial German Government with regard to its announcement of a war zone and the use of submarines against merchantmen on the high seas—the principle that the high seas are free; that the character and cargo of a merchantman must first be ascertained before she can lawfully be seized or destroyed; and that the lives of noncombatants may in no case be put in jeopardy unless the vessel resists or seeks to escape after being summoned to submit to examination, for a belligerent act of retaliation is per se an act beyond the law, and the defense of an act as retaliatory is an admission that it is illegal.

The Government of the United States is, however, keenly disappointed to find that the Imperial German Government regards itself as in large degree exempt from the obligation to observe these principles, even where neutral vessels are concerned, by what it believes the policy and practice of the Government of Great Britain to be in the present war with regard to neutral commerce. The Imperial German Government will readily understand that the Government of the United States can not discuss the policy of the Government of Great Britain with regard to neutral trade except with that Government itself, and that it must regard the conduct of other belligerent Governments as irrelevant to any discussion with the Imperial German Government of what this Government regards as grave and unjustifiable violations of the rights of American citizens by German naval commanders.

Illegal and inhuman acts, however justifiable they may be thought to be, against an enemy who is believed to have acted in contravention of law and humanity, are manifestly indefensible when they deprive neutrals of their acknowledged rights, particularly when they violate the right to life itself. If a belligerent can not retaliate against an enemy without injuring the lives of neutrals, as well as their property, humanity, as well as justice and a due regard for the dignity of neutral powers, should dictate that the practice be discontinued. If persisted in it would in such circumstances constitute an unpardonable offense against the sovereignty of the neutral nation affected.

The Government of the United States is not unmindful of the extraordinary conditions created by this war or of the radical alterations of circumstance and method of attack produced by the use of instrumentalities of naval warfare which the nations of the world can not have had in view when the existing rules of international law were formulated, and it is ready to make every reasonable allowance for these novel and unexpected aspects of war at sea; but it can not consent to abate any essential or fundamental right of its people because of a mere alteration of circumstances. The rights of neutrals in time of war are based upon principle, not upon expediency, and the principles are immutable. It is the duty and obligation of belligerents to find a way to adapt the new circumstances to them.

The events of the past two months have clearly indicated that it is possible and practicable to conduct such submarine operations as have characterized the activity of the Imperial German Navy within the

so-called war zone in substantial accord with the accepted practices of regulated warfare. The whole world has looked with interest and increasing satisfaction at the demonstration of that possibility by German naval commanders. It is manifestly possible, therefore, to lift the whole practice of submarine attack above the criticism which it has aroused and remove the chief causes of offense.

In view of the admission of illegality made by the Imperial Government when it pleaded the right of retaliation in defense of its acts, and in view of the manifest possibility of conforming to the established rules of naval warfare, the Government of the United States can not believe that the Imperial Government will longer refrain from disavowing the wanton act of its naval commander in sinking the *Lusitania* or from offering reparation for the American lives lost, so far as reparation can be made for a needless destruction of human life by an illegal act.

The Government of the United States, while not indifferent to the friendly spirit in which it is made, can not accept the suggestion of the Imperial German Government that certain vessels be designated and agreed upon which shall be free on the seas now illegally proscribed. The very agreement would, by implication, subject other vessels to illegal attack, and would be a curtailment and therefore an abandonment of the principles for which the Government contends, and which in times of calmer counsels every nation would concede as of course.

The Government of the United States and the Imperial German Government are contending for the same great objects; have long stood together in urging the very principles upon which the Government of the United States now so solemnly insists. They are both contending for the freedom of the seas. The Government of the United States will continue to contend for that freedom, from whatever quarter violated, without compromise and at any cost. It invites the practical cooperation of the Imperial German Government at this time, when cooperation may accomplish most and this great common object be most strikingly and effectively achieved.

The Imperial German Government expresses the hope that this object may be in some measure accomplished even before the present war ends. It can be. The Government of the United States not only feels obliged to insist upon it, by whomsoever violated or ignored, in the protection of its own citizens, but is also deeply interested in seeing it made practicable between the belligerents themselves, and holds itself ready at any time to act as the common friend who may be privileged to suggest a way.

In the meantime, the very value which this Government sets upon the long and unbroken friendship between the people and Government of the United States and the people and Government of the German Nation impels it to press very solemnly upon the Imperial German Government the necessity for a scrupulous observance of neutral rights in this critical matter. Friendship itself prompts it to say to the Imperial Government that repetition by the commanders of German naval vessels of acts in contravention of those rights must be regarded by the Government of the United States, when they affect American citizens, as deliberately unfriendly.

LANSING.

(The New York Times, July 24, 1915.)

On the 27th day of July the American steamer *Leelanaw* was attacked by a German submarine.

[Telegram.]

AMERICAN CONSULATE,
Dundee, July 28, 1915.

Leelanaw's crew here all safe. Sail Saturday *Saint Paul.* Master under oath stated sighted German submarine July 25, 60 miles northwest Orkneys. Endeavored to escape. Fired on at distance 2 miles, shot falling short; hove to and stopped. Submarine signaled for ship's papers, which were sent. After examining them submarine signaled abandon ship. Ample time given crew to leave ship. Five shots then fired at *Leelanaw* without effect, followed by torpedo. Crew then taken on submarine with lifeboats in tow, after which two more shots were fired, last one setting fire to ship. Submarine headed toward Orkneys. *Leelanaw* was seen to sink 1 hour 20 minutes later. Eight-thirty another steamer being seen approaching, crew ordered to boats, in which they proceeded remainder distance to Kirkwall, arriving 6.30 following morning. *Leelanaw* laden with flax and tow only. Before leaving submarine, master demanded ship's papers. Request refused, his register, customs manifest, and bills of lading being retained. Master has no complaint of treatment on submarine.

DENNISON.

The question of exportation of munitions came up by a note from Austria-Hungary. On August 12, 1915, our Government made its statement of our position:

THE SECRETARY OF STATE TO AMBASSADOR PENFIELD.

[Telegram.]

DEPRTMENT OF STATE,
Washington, August 12, 1915.

Please present a note to the Royal Foreign Office in reply to its note of June 29, in the following sense:

The Government of the United States has given careful consideration to the statement of the Imperial and Royal Government in regard to the exportation of arms and ammunition from the United States to the countries at war with Austria-Hungary and Germany. The Government of the United States notes with satisfaction the recognition by the Imperial and Royal Government of the undoubted fact that its attitude with regard to the exportation of arms and ammunition from the United States is prompted by its intention to "maintain the strictest neutrality and to conform to the letter of the provisions of international treaties," but is surprised to find the Imperial and Royal Government implying that the observance of the strict principles of the law under the conditions which have developed in the present war is insufficient, and asserting that this Government should go beyond the long recognized rules governing such traffic by neutrals and adopt measures to "maintain an attitude of strict parity with respect to both belligerent parties."

To this assertion of an obligation to change or modify the rules of international usage on account of special conditions the Government of the United States can not accede. The recognition of an obligation of this sort, unknown to the international practice of the past, would impose upon every neutral nation a duty to sit in judgment on the progress of a war and to restrict its commercial intercourse with a belligerent whose naval successes prevented the neutral from trade with the enemy. The contention of the Imperial and Royal Government appears to be that the advantages gained to a belligerent by its superiority on the sea should be equalized by the neutral powers by the establishment of a system of nonintercourse with the victor. The Imperial and Royal Government confines its comments to arms and ammunition, but if the principle for which it contends is sound, it should apply with equal force to all articles of contraband. A belligerent controlling the high seas might possess an ample supply of arms and ammunition, but be in want of food and clothing. On the novel principle that equalization is a neutral duty, neutral nations would be obligated to place an embargo on such articles because one of the belligerents could not obtain them through commercial intercourse.

But if this principle, so strongly urged by the Imperial and Royal Government, should be admitted to obtain by reason of the superiority of a belligerent at sea, ought it not to operate equally as to a belligerent superior on land? Applying this theory of equalization, a belligerent who lacks the necessary munitions to contend successfully on land ought to be permitted to purchase them from neutrals, while a belligerent with an abundance of war stores or with the power to produce them should be debarred from such traffic.

Manifestly the idea of strict neutrality now advanced by the Imperial and Royal Government would involve a neutral nation in a mass of perplexities which would obscure the whole field of international obligation, produce economic confusion, and deprive all commerce and industry of legitimate fields of enterprise, already heavily burdened by the unavoidable restrictions of war.

In this connection it is pertinent to direct the attention of the Imperial and Royal Government to the fact that Austria-Hungary and Germany, particularly the latter, have during the years preceding the present European war produced a great surplus of arms and ammunition, which they sold throughout the world and especially to belligerents. Never during that period did either of them suggest or apply the principle now advocated by the Imperial and Royal Government.

During the Boer War between Great Britain and the South African Republics the patrol of the coasts of neighboring neutral colonies by British naval vessels prevented arms and ammunition reaching the Transvaal or the Orange Free State. The allied Republics were in a situation almost identical in that respect with that in which Austria-Hungary and Germany find themselves at the present time. Yet, in spite of the commercial isolation of one belligerent, Germany sold to Great Britain, the other belligerent, hundreds of thousands of kilos of explosives, gunpowder, cartridges, shot, and weapons; and it is known that Austria-Hungary also sold similar munitions to the same purchaser, though in smaller quantities. While, as compared with the present war, the quantities

sold were small (a table of the sales is appended), the principle of neutrality involved was the same. If at that time Austria-Hungary and her present ally had refused to sell arms and ammunition to Great Britain on the ground that to do so would violate the spirit of strict neutrality, the Imperial and Royal Government might with greater consistency and greater force urge its present contention.

It might be further pointed out that during the Crimean War large quantities of arms and military stores were furnished to Russia by Prussian manufacturers; that during the recent war between Turkey and Italy, as this Government is advised, arms and ammunition were furnished to the Ottoman Government by Germany; and that during the Balkan wars the belligerents were supplied with munitions by both Austra-Hungary and Germany. While these latter cases are not analogous, as is the case of the South African War, to the situation of Austria-Hungary and Germany in the present war, they nevertheless clearly indicate the long-established practice of the two Empires in the matter of trade in war supplies.

In view of the foregoing statements, this Government is reluctant to believe that the Imperial and Royal Government will ascribe to the United States a lack of impartial neutrality in continuing its legitimate trade in all kinds of supplies used to render the armed forces of a belligerent efficient, even though the circumstances of the present war prevent Austria-Hungary from obtaining such supplies from the markets of the United States, which have been and remain, so far as the action and policy of this Government are concerned, open to all belligerents alike.

But, in addition to the question of principle, there is a practical and substantial reason why the Government of the United States has from the foundation of the Republic to the present time advocated and practiced unrestricted trade in arms and military supplies. It has never been the policy of this country to maintain in time of peace a large military establishment or stores of arms and ammunition sufficient to repel invasion by a well-equipped and powerful enemy. It has desired to remain at peace with all nations and to avoid any appearance of menacing such peace by the threat of its armies and navies. In consequence of this standing policy the United States would, in the event of attack by a foreign power, be at the outset of the war seriously, if not fatally, embarrassed by the lack of arms and ammunition and by the means to produce them in sufficient quantities to supply the requirements of national defense. The United States has always depended upon the right and power to purchase arms and ammunition from neutral nations in case of foreign attack. This right, which it claims for itself, it can not deny to others.

A nation whose principle and policy it is to rely upon international obligations and international justice to preserve its political and territorial integrity might become the prey of an aggressive nation whose policy and practice it is to increase its military strength during times of peace with the design of conquest, unless the nation attacked can, after war had been declared, go into the markets of the world and purchase the means to defend itself against the aggressor.

The general adoption by the nations of the world of the theory that neutral powers ought to prohibit the sale of arms and ammunition to belligerents would compel every nation to have in readiness

at all times sufficient munitions of war to meet any emergency which might arise and to erect and maintain establishments for the manufacture of arms and ammunition sufficient to supply the needs of its military and naval forces throughout the progress of a war. Manifestly the application of this theory would result in every nation becoming an armed camp, ready to resist aggression and tempted to employ force in asserting its rights rather than appeal to reason and justice for the settlement of international disputes.

Perceiving, as it does, that the adoption of the principle that it is the duty of a neutral to prohibit the sale of arms and ammunition to a belligerent during the progress of a war would inevitably give the advantage to the belligerent which had encouraged the manufacture of munitions in time of peace and which had laid in vast stores of arms and ammunition in anticipation of war, the Government of the United States is convinced that the adoption of the theory would force militarism on the world and work against that universal peace which is the desire and purpose of all nations which exalt justice and righteousness in their relations with one another.

The Government of the United States in the foregoing discussion of the practical reason why it has advocated and practiced trade in munitions of war, wishes to be understood as speaking with no thought of expressing or implying any judgment with regard to the circumstances of the present war, but as merely putting very frankly the argument in this matter which has been conclusive in determining the policy of the United States.

While the practice of nations, so well illustrated by the practice of Austria-Hungary and Germany during the South African War, and the manifest evil which would result from a change of that practice render compliance with the suggestions of the Imperial and Royal Government out of the question, certain assertions appearing in the Austro-Hungarian statement as grounds for its contentions can not be passed over without comment. These assertions are substantially as follows: (1) That the exportation of arms and ammunition from the United States to belligerents contravenes the preamble of The Hague Convention No. 13 of 1907; (2) that it is inconsistent with the refusal of this Government to allow delivery of supplies to vessels of war on the high seas; (3) that, "according to all authorities on international law who concern themselves more properly with the question," exportation should be prevented "when this traffic assumes such a form or such dimensions that the neutrality of a nation becomes involved thereby."

As to the assertion that the exportation of arms and ammunition contravenes the preamble of The Hague Convention No. 13 of 1907, this Government presumes that reference is made to the last paragraph of the preamble, which is as follows: "Seeing that, in this category of ideas, these rules should not, in principle, be altered in the course of the war by a neutral power, except in a case where experience has shown the necessity for such change for the protection of the rights of that power."

Manifestly the only ground to change the rules laid down by the convention, one of which, it should be noted, explicitly declares that a neutral is not bound to prohibit the exportation of contraband of war, is the necessity of a neutral power to do so in order to protect its own rights. The right and duty to determine when this necessity

exists rests with the neutral, not with a belligerent. It is discretionary, not mandatory. If a neutral power does not avail itself of the right, a belligerent is not privileged to complain, for in doing so it would be in the position of declaring to the neutral power what is necessary to protect that power's own rights. The Imperial and Royal Government can not but perceive that a complaint of this nature would invite just rebuke.

With reference to the asserted inconsistency of the course adopted by this Government in relation to the exportation of arms and ammunition and that followed in not allowing supplies to be taken from its ports to ships of war on the high seas, it is only necessary to point out that the prohibition of supplies to ships of war rests upon the principle that a neutral power must not permit its territory to become a naval base for either belligerent. A warship may, under certain restrictions, obtain fuel and supplies in a neutral port once in three months. To permit merchant vessels acting as tenders to carry supplies more often than three months and in unlimited amount would defeat the purpose of the rule and might constitute the neutral territory a naval base. Furthermore, this Government is unaware that any Austro-Hungarian ship of war has sought to obtain supplies from a port in the United States, either directly or indirectly. This subject has, however, already been discussed with the Imperial German Government, to which the position of this Government was fully set forth December 24, 1914.

In view of the positive assertion in the statement of the Imperial and Royal Government as to the unanimity of the opinions of text-writers as to the exportation of contraband being unneutral, this Government has caused a careful examination of the principal authorities on international law to be made. As a result of this examination it has come to the conclusion that the Imperial and Royal Government has been misled and has inadvertently made an erroneous assertion. Less than one-fifth of the authorities consulted advocate unreservedly the prohibition of the export of contraband. Several of those who constitute this minority admit that the practice of nations has been otherwise. It may not be inopportune to direct particular attention to the declaration of the German authority, Paul Einicke, who states that at the beginning of a war, belligerents have never remonstrated against the enactment of prohibitions of trade in contraband, but adds "that such prohibitions may be considered as violations of neutrality, or at least as unfriendly acts, if they are enacted during a war with the purpose to close unexpectedly the sources of supply to a party which heretofore had relied on them."

The Government of the United States deems it unnecessary to extend further at the present time a consideration of the statement of the Austro-Hungarian Government. The principles of international law, the practice of nations, the national safety of the United States and other nations without great military and naval establishments, the prevention of increased armies and navies, the adoption of peaceful methods for the adjustment of international differences, and, finally, neutrality itself are opposed to the prohibition by a neutral nation of the exportation of arms, ammunition, or other munitions of war to belligerent powers during the progress of the war.

LANSING.

Two months later Germany submitted the following:

AMBASSADOR GERARD TO THE SECRETARY OF STATE.

No. 1672.] AMERICAN EMBASSY,
Berlin, October 19, 1915.

With reference to the department's telegram No. 2022, dated July 31, 1915, 3 p. m., and to my telegram of even date, No. 3023, I have the honor to transmit herewith a translation of a note received to-day from the Imperial Foreign Office, dated October 16, 1915, relating the facts of the sinking of the American steamer *Leelanaw* by a German submarine on July 25, 1915.

I have, etc.,

J. W. GERARD.

[Inclosure—Translation.]

No. IIIa. 17397.
153453.

FOREIGN OFFICE,
Berlin, October 16, 1915.

NOTE VERBALE.

The Foreign Office has the honor to make the following reply to the note verbale of the Embassy of the United States of America, dated August 2, 1915, F. O. No. 4536, relative to the sinking of the American steamer *Leelanaw*.

The steamer mentioned was stopped by a German submarine at 2.10 o'clock on the afternoon of July 25, 1915, in 59° 55′ latitude north and 4° 22′ longitude west. According to the ship's paper, she was on a voyage from Archangel to Belfast; the cargo consisted of flax. The commander of the submarine considered the cargo contraband and decided accordingly to sink the vessel and cargo. He saw to it that the crew of the vessel was safely taken ashore and took the ship's papers of the steamer *Leelanaw* on board the submarine.

Under article 21, No. 22, of the German Prize Ordinance, as amended by the Ordinance of April 18, 1915 (Reichs-Gesetzblatt, p. 227), flax is to be considered absolute contraband. The ordinance of April 18, 1915, was communicated to the Embassy of the United States of America by note verbale of April 22, 1915 (IIIa, 8434), with the request that the contents be brought to the knowledge of the American Government. It was possible, therefore, for the shippers and captain of the steamer *Leelanaw* to have knowledge of the German contraband regulations. The goods were destined for an English port; thus the contraband was liable to seizure without further formality (vide art. 30 of the German Prize Ordinance; art. 31 of the Declaration of London). According to value and bulk the contraband formed more than half the whole cargo; consequently the vessel herself was liable to confiscation (vide art. 41, par. 2 of the German Prize Ordinance; art. 40 of the Declaration of London). Since the German commander was unable to take the steamer into a German port without exposing the submarine to danger or impairing the success of the operations in which it was engaged, he was justified in destroying the vessel (art. 113 of the German Prize

Ordinance; art. 49 of the Declaration of London). He fulfilled his obligation of placing all persons on board and the ship's papers in safety. (Art. 116 of the German Prize Ordinance; art. 50 of the Declaration of London.)

The commander therefore acted in conformity with the principles of international law. The legality of the measures taken by him is examinable by German prize jurisdiction according to article 1, No. 2, of the German Prize Ordinance; article 51 of the Declaration of London. The ship's papers have already been sent to the prize court at Hamburg. This court will have to decide the questions whether the destruction of the vessel and cargo was legal, whether the property sunk was liable to confiscation, and to whom and in what amount indemnity is to be awarded, provided any claim therefor is before it. It is true that in the present case, as in the case of the *William P. Frye*, the special provisions of article 13 of the Prussian-American treaty of July 11, 1799, are to be considered, pursuant to which property belonging to citizens of the United States of America may only be confiscated when its value is restored.

It appears from information received from the prize court that the American shipping interests have already intrusted a Hamburg attorney with a representation of their rights before the prize court. The foreign office begs to reserve a note concerning the outcome of the proceedings of the court.

On the 19th of August the *Arabic*, of the White Star Line, was torpedoed and sank in 11 minutes. On the same day Count Bernstorff addressed a communication to our Government, in which he said:

In case Americans should actually have lost their lives this would naturally be contrary to the intention of the German Government, who would deeply regret this fact and has instructed me to extend its sincerest sympathy to the Government of the United States.

Later this communication followed:

"AMBASSADOR W. H. PAGE TO THE SECRETARY OF STATE.

"[Telegram—Paraphrase.]

"AMERICAN EMBASSY,
"*London, August 19, 1915.*

"Mr. Page informs Mr. Lansing that he has just received word that the steamer *Arabic*, of the White Star Line, was torpedoed at 9 o'clock this morning and sank in 11 minutes. He reports that 15 lifeboats from the vessel are proceeding to Liverpool and that he will send details of the incident as soon as possible."

Although I know that you do not wish to discuss the *Lusitania* question till the *Arabic* incident has been definitely and satisfactorily settled, I desire to inform you of the above, because this policy of my Government was decided on before the *Arabic* incident occurred.

I have no objection to your making any use you may please of the above information.

I remain, etc., J. BERNSTORFF.

Six days later the following was sent from Ambassador Gerard to the Secretary of State:

AMERICAN EMBASSY,
Berlin, September 7, 1915.

Foreign office sends me the following report of the sinking of the *Arabic*, with the request that it be brought to the knowledge of the American Government:

On the 19th of August a German submarine stopped the English steamer *Dunsley* about 60 nautical miles south of Kinsale and was on the point of sinking the prize by gun fire after the crew had left the vessel. At this moment the commander saw a large steamer making directly toward him. This steamer, which, as developed later, was identical with the *Arabic*, was recognized as an enemy vessel, as she did not fly any flag and bore no neutral markings. When she approached she altered her original course, but then again pointed directly toward the submarine. From this the commander became convinced that the steamer had the intention of attacking and ramming him. In order to anticipate this attack he gave orders to have the submarine submerge and fired a torpedo at the steamer. After firing he convinced himself that the people on board were being rescued in 15 boats.

According to his instructions the commander was not allowed to attack the *Arabic* without warning and without saving lives unless the ship attempted to escape or offered resistance. He was forced to conclude from the attendant circumstances that the *Arabic* planned a violent attack on the submarine. This conclusion was all the more obvious, as he had been fired upon at a great distance in the Irish Sea on August 14—that is, a few days before—by a large passenger steamer apparently belonging to the British Royal Mail Steam Packet Co., which he had neither attacked nor stopped.

The German Government most deeply regrets that lives were lost through the action of the commander. It particularly expresses this regret to the Government of the United States on account of the death of American citizens. The German Government is unable, however, to acknowledge any obligation to grant indemnity in the matter, even if the commander should have been mistaken as to the aggressive intentions of the *Arabic*. If it should prove to be the case that it is impossible for the German and the American Governments to reach a harmonious opinion on this point, the German Government would be prepared to submit the difference of opinion as being a question of international law to The Hague tribunals, pursuant to article 38 of The Hague Convention for the Pacific Settlement of International Disputes. In so doing it assumes that as a matter of course the arbitral decision shall not be admitted to have the importance of a general decision on the permissibility or the converse under international law of German submarine warfare. Berlin, September 7, 1915.

GERARD.

The *Arabic* controversy was continued by the following memorandum:

THE SECRETARY OF STATE TO AMBASSADOR GERARD.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 14, 1915.

You are instructed to deliver to the Foreign Office the following summary of the evidence on file in the department in regard to the sinking of the *Arabic*.

(1) It is generally agreed that the course of the *Arabic* drew her nearer to the *Dunsley* from the time the *Dunsley* and *Arabic* sighted each other until about the time the *Arabic* was torpedoed. (Affidavits of master, first, second, and third officers, mess steward and seamen of *Dunsley;* affidavits of captain and second officer of the *Arabic;* unsworn statements of three American passengers.) The officers of the *Dunsley* agree that the *Arabic* altered her course somewhat toward the *Dunsley*, but that her course was variable or zig-zag. (Affidavits of master, first, second, and third officers and mess steward and one seaman of the *Dunsley;* affidavits of captain and second officer of *Arabic;* affidavit of one American passenger.) The third officer stated that the *Arabic* began the zig-zag course 4 miles away from the *Dunsley*. Though the *Arabic* at times necessarily pointed toward the *Dunsley*, at the time the torpedo struck she was moving away from the *Dunsley*. (Affidavit of captain and second officer of *Arabic*, third officer of *Dunsley*, and one passenger of unknown nationality, and unsworn statement of one American passenger.)

(2) The passengers on the *Arabic* variously estimated that the *Arabic* approached the *Dunsley* to within 1 to 5 miles. (Affidavits of three American passengers; unsworn statements of three American passengers and one passenger of unknown nationality.) While the *Dunsley* was sighted several miles away, the officers of that vessel estimated that the *Arabic* approached to 1½ to 3 miles from the *Dunsley*. (Affidavits of master, first, and seconds officers.) And one *Dunsley* seaman swore the first distance was only one-half mile. The affidavits of the captain and the second officer of the *Arabic* agree that the *Arabic* did not approach nearer than 2 miles to the *Dunsley*.

(3) It appears that the submarine, after shelling the *Dunsley* and after sighting the *Arabic*, hid behind the *Dunsley* and submerged before the explosion of the torpedo which sank the *Arabic*. (Affidavits of master, first, and second officers, mess steward, and one seaman of *Dunsley*.)

(4) Witnesses are in agreement that the submarine was not seen from the *Arabic* (affidavits of the captain and second officer of the *Arabic*, affidavits of three American passengers, and unsworn statement of passenger of unknown nationality), and that the *Arabic* could not have seen the submarine from its position behind the *Dunsley* prior to submerging. (Affidavit of second officer of the *Dunsley*.)

5. All agree that the *Arabic* received no warning. (Affidavit of six American passengers and two passengers of unknown nationality, and the unsworn statements of four American passengers and two passengers of unknown nationality and the affidavits of captain and second officer of the *Arabic*.)

(6) The torpedo was first seen by the passengers at an estimated distance of 150 to 300 yards away. (Affidavit of passenger of unknown nationality; unsworn statements of two American passengers, and one passenger of unknown nationality.) The captain of the *Arabic*, however, swears that the air bubbles and the torpedo were only 300 feet away when he saw them. (It appears that Consul Washington at Liverpool, in conversation with Capt. Finch and the second officer of the *Arabic*, learned that they saw bubbles of air at the time they first noticed the torpedo, which were taken to indicate the air escaping at the time the torpedo was expelled from the tube, and that therefore the submarine was supposed to have been only 300 feet from the *Arabic* and about 2 miles from the *Dunsley* when the torpedo was fired. Consul Washington's three telegraphic reports of August 24.)

(7) All agree that the torpedo struck the *Arabic* near the stern on the starboard side. (Affidavit of captain, second officer of *Dunsley*, and two American passengers and a passenger of unknown nationality, and unsworn statement of one American passenger.)

From a diagram made by the second officer of the *Arabic*, who observed the approach of the torpedo from the navigating bridge, the course of the torpedo was almost at right angles to the course of the *Arabic*.

Germany issued the following instructions on October 5, 1915:

THE GERMAN AMBASSADOR TO THE SECRETARY OF STATE.

GERMAN EMBASSY,
Washington, October 5, 1915.

MY DEAR MR. SECRETARY: Prompted by the desire to reach a satisfactory agreement with regard to the *Arabic* incident my Government has given me the following instructions:

The orders issued by His Majesty the Emperor to the commanders of the German submarines—of which I notified you on a previous occasion—have been made so stringent that the recurrence of incidents similar to the *Arabic* case is considered out of the question.

According to the report of Commander Schneider of the submarine that sank the *Arabic*, and his affidavit as well as those of his men, Commander Schneider was convinced that the *Arabic* intended to ram the submarine. On the other hand, the Imperial Government does not doubt the good faith of the affidavits of the British officers of the *Arabic*, according to which the *Arabic* did not intend to ram the submarine. The attack of the submarine, therefore, was undertaken against the instructions issued to the commander. The Imperial Government regrets and disavows this act and has notified Commander Schneider accordingly.

Under these circumstances my Government is prepared to pay an indemnity for the American lives which, to its deep regret, have been lost on the *Arabic*. I am authorized to negotiate with you about the amount of this indemnity.

I remain, etc., J. BERNSTORFF.

Three months later Germany issued further instructions, as follows:

COMMUNICATION FROM GERMAN GOVERNMENT DELIVERED BY GERMAN AMBASSADOR, UNDER INSTRUCTIONS.

GERMAN EMBASSY,
Washington (Received January 7, 1916).

1. German submarines in the Mediterranean had, from the beginning, orders to conduct cruiser warfare against enemy merchant vessels only in accordance with general principles of international law and in particular measures of reprisal, as applied in the war zone around the British Isles, were to be excluded.

2. The German submarines are therefore permitted to destroy enemy merchant vessels in the Mediterranean—i. e., passenger as well as freight ships as far as they do not try to escape or offer resistance—only after passengers and crews have been accorded safety.

3. All cases of destruction of enemy merchant ships in the Mediterranean in which German submarines are concerned are made the subject of official investigation and, besides, submitted to regular prize court proceedings. In so far as American interests are concerned, the German Government will communicate the result to the American Government. Thus also in the *Persia* case if the circumstances should call for it.

4. If commanders of German submarines should not have obeyed the orders given to them, they will be punished; furthermore, the German Government will make reparation for damage caused by death of or injuries to American citizens.

The submarine controversy was expanded by the sinking of the Italian liner *Ancona* November 7, in which nine Americans perished. This incident was intensified by the fact that Dr. Dumba, the Austrian ambassador, had been called home, at the insistence of the United States, on September 27, as the result of the discovery, through the seizure of papers on the person of James F. J. Archibald, an American citizen, of a letter from the ambassador to his home Government suggesting the incitement of strikes in American munition factories. Archibald was arrested by the British authorities when the *Rotterdam*, on which he was traveling to Holland, put into Falmouth.

The following communication from the American Government to the Austrian Government was sent December 6, 1915:

THE SECRETARY OF STATE TO AMBASSADOR PENFIELD.

DEPARTMENT OF STATE,
Washington, December 6, 1915.

Please deliver a note to the minister of foreign affairs, textually as follows:

"Reliable information obtained from American and other survivors who were passengers on the steamship *Ancona* shows that on November 7 a submarine flying the Austro-Hungarian flag fired a

solid shot toward the steamship; that thereupon the *Ancona* attempted to escape, but being overhauled by the submarine, she stopped; that after a brief period and before the crew and passengers were all able to take to the boats the submarine fired a number of shells at the vessel and finally torpedoed and sank her while there were yet many persons on board; and that by gunfire and foundering of the vessel a large number of persons lost their lives or were seriously injured, among whom were citizens of the United States.

"The public statement of the Austro-Hungarian Admiralty has been brought to the attention of the Government of the United States and received careful consideration. This statement substantially confirms the principal declaration of the survivors, as it admits that the *Anoona*, after being shelled, was torpedoed and sunk while persons were still on board.

"The Austro-Hungarian Government has been advised, through the correspondence which has passed between the United States and Germany, of the attitude of the Government of the United States as to the use of submarines in attacking vessels of commerce, and the acquiescence of Germany in that attitude, yet with full knowledge on the part of the Austro-Hungarian Government of the views of the Government of the United States as expressed in no uncertain terms to the ally of Austria-Hungary, the commander of the submarine which attacked the *Ancona* failed to put in a place of safety the crew and passengers of the vessel which they purposed to destroy because, it is presumed, of the impossibility of taking it into port as a prize of war.

"The Government of the United States considers that the commander violated the principles of international law and of humanity by shelling and torpedoing the *Ancona* before the persons on board had been put in a place of safety or even given sufficient time to leave the vessel. The conduct of the commander can only be characterized as wanton slaughter of defenseless noncombatants, since at the time when the vessel was shelled and torpedoed she was not, it appears, resisting or attempting to escape; and no other reason is sufficient to excuse such an attack, not even the possibility of rescue.

"The Government of the United States is forced, therefore, to conclude either that the commander of the submarine acted in violation of his instructions or that the Imperial and Royal Government failed to issue instructions to the commanders of its submarines in accordance with the law of nations and the principles of humanity. The Government of the United States is unwilling to believe the latter alternative and to credit the Austro-Hungarian Government with an intention to permit its submarines to destroy the lives of helpless men, women, and children. It prefers to believe that the commander of the submarine committed this outrage without authority and contrary to the general or special instructions which he had received.

"As the good relations of the two countries must rest upon a common regard for law and humanity, the Government of the United States can not be expected to do otherwise than to demand that the Imperial and Royal Government denounce the sinking of the *Ancona* as an illegal and indefensible act; that the officer who perpetrated the deed be punished; and that reparation by the payment of an

indemnity be made for the citizens of the United States who were killed or injured by the attack on the vessel.

"The Government of the United States expects that the Austro-Hungarian Government, appreciating the gravity of the case, will accede to its demand promptly; and it rests this expectation on the belief that the Austro-Hungarian Government will not sanction or defend an act which is condemned by the world as inhuman and barbarous, which is abhorrent to all civilized nations, and which has caused the death of innocent American citizens."

LANSING.

The Austrian reply:

AMBASSADOR PENFIELD TO THE SECRETARY OF STATE.

[Telegram.]

AMERICAN EMBASSY,
Vienna, December 15, 1915.

Department's 1011, December 6, 6 p. m.

Following note received from Minister for Foreign Affairs noon to-day:

"In reply to the much-esteemed note, No. 4167, which his excellency, Mr. Frederic Courtland Penfield, ambassador extraordinary and plenipotentiary of the United States of America, directed to him in the name of the American Government under date of the 9th instant in the matter of the sinking of the Italian steamer *Ancona*, the undersigned, preliminary to a thorough, meritorious treatment of the demand, has the honor to observe that the sharpness with which the Government of the United States considers it necessary to blame the commanding officer of the submarine concerned in the affair and the firmness in which the demands addressed to the Imperial and Royal Government appear to be expressed might well have warranted the expectation that the Government of the United States should precisely specify the actual circumstances of the affair upon which it bases its case. As is not difficult to perceive, the presentation of the facts in the case in the aforesaid note leaves room for many doubts; and even if this presentation were correct in all points and the most rigorous legal conception were applied to the judgment of the case, it does not in any way sufficiently warrant attaching blame to the commanding officer of the war vessel or to the Imperial and Royal Government.

"The Government of the United States has also failed to designate the persons upon whose testimony it relies and to whom it apparently believes it may attribute a higher degree of credibility than to the commander of the imperial and royal fleet. The note also fails to give any information whatsoever as to the number, names, and more precise fate of the American citizens who were on board of the said steamer at the critical moment.

"However, in view of the fact that the Washington Cabinet has now made a positive statement to the effect that citizens of the United States of America came to grief in the incident in question, the Imperial and Royal Government is in principle ready to enter into an exchange of views in the affair with the Government of the United States. It must, however, in the first place, raise the question

why that Government failed to give juridicial reasons for the demands set forth in its note with reference to the special circumstances of the incriminating events upon which it itself lays stress, and why, in lieu thereof, it referred to an exchange of correspondence which it has conducted with another Government in other cases. The Imperial and Royal Government is the less able to follow the Washington Cabinet on this unusual path, since it by no means possesses authentic knowledge of all of the pertinent correspondence of the Government of the United States, nor is it of the opinion that such knowledge might be sufficient for it in the present case, which, in so far as it is informed, is in essential points of another nature than the case or cases to which the Government of the United States seems to allude. The Imperial and Royal Government may therefore leave it to the Washington Cabinet to formulate the particular points of law against which the commanding officer of the submarine is alleged to have offended on the occasion of the sinking of the *Ancona*.

"The Government of the United States has also seen fit to refer to the attitude which the Berlin Cabinet assumed in the above-mentioned correspondence. The Imperial and Royal Government finds in the much esteemed note no indication whatever of the intent with which this reference was made. Should, however, the Government of the United States thereby have intended to express an opinion to the effect that a precedent of whatever nature existed for the Imperial and Royal Government with respect to the juridical consideration of the affair in question this Government must, in order to preclude possible misunderstandings, declare that as a matter of course it reserves to itself full freedom of maintaining its own legal views in the discussion of the case of the *Ancona*.

"In having the honor to have recourse to the kindness of his excellency the ambassador of the United States of America, with the most respectful request to be good enough to communicate the foregoing to the American Government, and on this occasion to state that the Imperial and Royal Government, in no less degree than the American Government and under all circumstances, most sincerely deplores the fate of the innocent victims of the incident in question, the undersigned at the same time avails himself of this opportunity to renew the expression of his most distinguished consideration to his excellency the ambassador.

"(Signed, BURIAN."
PENFIELD.

The American reply:

THE SECRETARY OF STATE TO AMBASSADOR PENFIELD.

[Telegram.]

No. 1039.] DEPARTMENT OF STATE,
Washington, December 19, 1915.

You are instructed to address a note to the Austro-Hungarian minister of foreign affairs, textually as follows:

"The Government of the United States has received the note of your excellency relative to the sinking of the *Ancona*, which was de-

livered at Vienna on December 15, 1915, and transmitted to Washington, and has given the note immediate and careful consideration.

"On November 15, 1915, Baron Zwiedenek, the chargé d'affaires of the Imperial and Royal Government at Washington, transmitted to the Department of State a report of the Austro-Hungarian Admiralty with regard to the sinking of the steamship *Ancona*, in which it was admitted that the vessel was torpedoed after her engines had been stopped and when passengers were still on board. This admission alone is, in the view of the Government of the United States, sufficient to fix upon the commander of the submarine which fired the torpedo the responsibility for having willfully violated the recognized law of nations and entirely disregarded those humane principles which every belligerent should observe in the conduct of war at sea. In view of these admitted circumstances the Government of the United States feels justified in holding that the details of the sinking of the *Ancona*, the weight and character of the additional testimony corroborating the admiralty's report, and the number of Americans killed or injured are in no way essential matters of discussion. The culpability of the commander is in any case established, and the undisputed fact is that citizens of the United States were killed, injured, or put in jeopardy by his lawless act.

"The rules of international law and the principles of humanity which were thus willfully violated by the commander of the submarine have been so long and so universally recognized and are so manifest from the standpoint of right and justice that the Government of the United States does not feel called upon to debate them and does not understand that the Imperial and Royal Government questions or disputes them.

"The Government of the United States therefore finds no other course open to it but to hold the Imperial and Royal Government responsible for the act of its naval commander and to renew the definite but respectful demands made in its communication of the 6th of December, 1915. It sincerely hopes that the foregoing statement of its position will enable the Imperial and Royal Government to perceive the justice of those demands and to comply with them in the same spirit of frankness and with the same concern for the good relations now existing between the United States and Austria-Hungary which prompted the Government of the United States to make them."

LANSING.

Second Austrian reply:

AMBASSADOR PENFIELD TO THE SECRETARY OF STATE.

[Telegram.]

AMERICAN EMBASSY,
Vienna, December 29, 1915.

The following reply to my note of the 21st instant, communicating textually the contents of the department's telegram No. 1039 of December 19, 1 p. m., was received this afternoon:

[Translation.]

"In reply to the very estemed note No. 4307, of the 21st instant, the undersigned has the honor most respectfully to communicate to

his excellency the ambassador of the United States of America, Mr. Frederic Courtland Penfield, the following:

"The Imperial and Royal Government thoroughly agrees with the Washington Cabinet that even in war the sacred demands of humanity must be complied with. Just as it has hitherto never given anyone occasion to doubt its respect for these demands, it has also given numerous proofs of its most humane sentiments, both toward enemies and neutrals, throughout the entire course of this war, which is presenting such convulsive pictures of moral confusion, and it was not its fault that not long ago it did not agree with the Washington Cabinet on a question which it, in unison with the entire public opinion in Austria-Hungary, regarded principally as a question of humanity.

"Also as concerns the principle expressed in the very esteemed note that hostile private ships, in so far as they do not flee or offer resistance, may not be destroyed without the persons on board having been placed in safety, the Imperial and Royal Government is able substantially to assent to this view of the Washington Cabinet.

"The Imperial and Royal Government is very responsive to the assurance that the Government of the United States attaches value to the maintenance of the good relations which happily exist between Austria-Hungary and the United States of America; it reciprocates this assurance most warmly and is now as ever, as far as lies within its power, zealous to render these relations still more cordial.

"Guided by the same spirit of candor as is the American Government, the Imperial and Royal Government, although it does not find in the aforesaid note a reply to all of its justified questions, is ready to communicate to the Government of the United States the result of the investigation which was instituted, in accordance with the existing internal regulations, immediately after the receipt of the naval report on the sinking of the *Ancona* and which has been very recently concluded. The results of this investigation may be summarized as follows:

"On November 7, 1915, at 11.40 a. m., in thick weather, the commander of the submarine saw the outlines of a large Italian steamer suddenly emerge from the fog one point to the starboard at a distance of about 3,000 meters, in latitude 38° 40′ north and longitude 10° 8′ east. He first took it for a transport steamer and put about and then fired a wide warning shot, from the after gun; at the same time he displayed the signal 'leave the ship.' The steamer did not stop, but on the contrary turned away and attempted to escape. The commander at first remained stationary several minutes in order to increase the distance, as he feared the steamer might have a stern gun and use it against the submarine. When the distance had increased to 4,500 meters, he took up the pursuit at full power and fired from the bow gun 16 shells at decreasing range and observed three hits. During the pursuit the steamer steered a zigzag course and did not stop until after the third hit. Thereupon the commander ceased firing. Even during the flight the steamer while at full speed dropped several boats with people, which immediately capsized; after stopping it began to rig out the boats. At a distance of about 2,000 meters the commander saw that six boats were completely filled and rapidly pulled away from the steamer. Another boat had capsized and was floating keel upward;

the people were hanging on to the lines and to the capsized boat. During the further approach of the submarine the commander saw that great panic was prevailing on board and that he was dealing with a passenger steamer, viz, the *Ancona*, of Genoa. He therefore accorded the people on board of the steamer more than the necessary time for leaving the ship in the lifeboats. There was still on board at least 10 lifeboats, which would have more than sufficed for the rescue of the people still on board. One of these boats was completely filled and hung on the half-rigged-out boat davits. As no further measures were being taken to rig out the boats, the commander decided, after the lapse of 45 minutes, to torpedo the ship in such a way that it would still remain above water for a considerable length of time, so that, on the one hand, the rigging out of the boats would be accelerated and, on the other hand, sufficient opportunity would remain for rescuing the people still on board.

"Shortly thereafter a steamer was sighted heading for the *Ancona* developing a great amount of smoke and which apparently had been summoned to the *Ancona* by radiotelegraphy. As the commander of the submarine had to count upon an attack from the steamer, which he took to be an enemy cruiser, he submerged after having had a torpedo launched at 12.35 p. m. from a distance of 800 meters at the forehold of the *Ancona*. After that torpedo shot the latter listed about 10° to starboard. At this time an attempt was made to completely lower the half-rigged-out lifeboat; it carried away, however, and fell into the water. The boat remained afloat, keel downward, and the people clung to the gunwale. None of the remaining boats were lowered to the water, although people were still seen on board. The steamer gradually righted itself to an even keel and sank so slowly that the commander of the submarine at first doubted whether the steamer would go down; as late as 1.20 it sank, bow first, after slowly submerging parallel to the water line. During this further period of 45 minutes it would have been easily possible to rescue, by means of the available boats, persons still on board. From the circumstances that, contrary to expectations, this did not happen, commander concluded that, contrary to all seamanlike custom, the crew had effected their own rescue in the first boats and left the passengers intrusted to their protection to themselves.

"At the time of the incident the weather was good, and the sea was smooth, so that the lifeboats could have reached the nearest coast without danger, as, in fact, lifeboats were damaged only through inexpert lowering but not after reaching the water. The loss of human lives is in no way to be attributed in the first instance to the sinking of the ship, but—and according to all probability in a much higher degree—to the dropping of the first boats while under way at full speed, as well as to the fact that the crew, thinking only of themselves, did not rescue the passengers of the capsized boats, and also possibly to the projectiles which struck the fleeing ship. But also the death of the persons who went down with the steamer is, above all, to be attributed to the conduct of the crew, which was contrary to the requirements of their duty.

"As is apparent from above-cited facts of the case, the very esteemed note of the 9th instant proceeds in several points from incorrect assumptions. The information reaching the American Government that a solid shot was immediately fired toward the steamer is

incorrect. It is incorrect that the submarine overhauled the steamer during the pursuit. It is incorrect that only a brief period was accorded for the disembarkation of the people; to the contrary, an unusually long time was given the *Ancona* for the disembarkation of the passengers. Finally, it is incorrect that a number of shells were still fired at the steamer after it had stopped.

"The facts in the case further permit it to be recognized that the commander of the submarine granted the steamer full 45 minutes; that is more than sufficient time to afford the persons on board opportunity for disembarkation. Then when the people had still not been rescued he effected the torpedoing in such a way that the ship would remain above water as long a time as possible; this with the intention of enabling the disembarkation in the boats still available. As the steamer remained above water 45 minutes more, he would indeed have accomplished this purpose if the crew had not in violation of their duty left the passengers in the lurch.

"Notwithstanding all appreciation of this procedure of their commander aiming at the rescue of the crew and passengers, the imperial and royal naval authorities came to the conclusion that he had failed to take into sufficient consideration the panic which occurred amongst the passengers rendering the embarkation more difficult, and the spirit of the regulation that imperial and royal naval officers should not refuse help to anyone in distress, not even to the enemy. Hence the officer has been punished in accordance with the rules in force in this matter for exceeding his instructions.

"In this state of affairs the Imperial and Royal Government does not hesitate to draw the appropriate conclusions with reference to the indemnification of the American citizens affected by the sinking of the prize.

"In this respect it must, however, make the following observations: As a matter of course the investigation into the sinking of the *Ancona* could not establish to what degree American citizens are entitled to a claim for indemnity. Even according to the view of the Washington Cabinet, the Imperial and Royal Government can not be held answerable for the injuries which were caused by the undoubtedly justified firing upon the fleeing ship. Just as little might it have to answer for the injuries which occurred before the torpedoing due to the faulty rigging out of the boats or to the capsizing of the boats which had been lowered.

"The Imperial and Royal Government must assume that the Washington Cabinet is able and willing to furnish it with the information which is required in this respect and which is certainly not immaterial. However, should the more precise circumstances under which the American citizens were injured be unknown to the Government of the United States due to a lack of the proper material evidence, the Imperial and Royal Government in consideration of the humanely deeply deplorable incident, and guided by the desire of again manifesting to the Government of the United States its friendly sentiments, would be readily willing to overlook this gap in the evidence and to extend the indemnity also to those injuries the direct cause of which could not be ascertained.

"While the Imperial and Royal Government may well regard the *Ancona* case as cleared up by the foregoing representations, it at the same time reserves to itself for a future time the discussion of the

difficult questions of international law in connection with submarine warfare.

"The undersigned has the honor to have recourse to the kindness of his excellency the ambassador of the United States of America with the most respectful request that he be good enough to communicate the foregoing to the Government of the United States and at the same time avails himself, etc.

"BURIAN."

PENFIELD.

Our relation with Austria was again disturbed by the attack on the steamer *Petrolite*. Our note follows:

THE SECRETARY OF STATE TO AMBASSADOR PENFIELD.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 21, 1916.

Evidence obtained from the captain and members of crew of the steamer *Petrolite*, and from examination made of the vessel under direction of the Navy Department, convinces this Government that the Austro-Hungarian Government has obtained an incorrect report of the attack on the steamer. With particular reference to the explanation made by the foreign office, the following information, briefly stated, has been obtained from sworn statements of the captain and members of crew:

No shot was fired across the bow of the steamer as a signal to stop. When the first shot was fired the captain was under the impression that an explosion had taken place in the engine room. Not until the second shot was fired did the captain and crew sight the submarine, which was astern of the steamer and therefore they positively assert that neither the first nor the second shot was fired across the bow of the vessel.

The steamer did not swing around in a course directed toward the submarine as alleged in the report obtained by the Austro-Hungarian Government, but the captain at once stopped the engines and swung the vessel broadside to the submarine and at right angles to the course of the vessel, in order to show its neutral markings, which was manifestly the reasonable and proper course to follow, and it ceased to make any headway. On the steamer was painted its name in letters approximately 6 feet long, and the name of the hailing port, and, as has previously been made known to Austro-Hungarian Government, the steamer carried two large flags some distance above the water line which it is positively stated by the officers and crew were flying before the first shot was fired, and were not hoisted after the first shot, as stated by the submarine commander.

The submarine commander admits that the steamer stopped her engines. The captain of the *Petrolite* denies that the vessel was ever headed toward the submarine, and the examination of the steamer made by an American naval constructor corroborates this statement, because, as he states, the shell which took effect on vessel, striking the deck house which surrounds the smokestack, was fired from a point 45° on the starboard bow. This was one of the last shots fired,

and indicates that ship was not headed toward the submarine even up to the time when the submarine ceased firing. The captain states that the submarine appeared to be maneuvering so as to direct her shots from ahead of the steamer. The submarine fired approximately 12 shots. The majority of the shots were fired after the ship had stopped and had swung broadside, and while, as even the commander of submarine admits, the steamer was flying the American flag. The captain of the steamer denies that he advised the commander of the submarine that the damage to the steamer was insignificant. He states that he advised him that steamer had been damaged, but that he not then had an opportunity to ascertain the extent of the damage. The seaman who was struck by a fragment of shell sustained severe flesh wounds.

If the ship had intended to ram the submarine, she would not have stopped her engines, and this must have been evident to the submarine commander. Naval authorities here agree that there could have been no donger of the ship ramming the submarine until it was headed straight for the submarine and was under power, and even then the submarine could have so maneuvered as to avoid collision. The *Petrolite* was 2 miles away from the submarine. The engines and funnel of the *Petrolite* were at the stern, and from the general appearance of the ship no experienced naval officer could have believed that it had opportunity or sufficient speed to attack, even if it had been steaming directly toward the submarine. The conduct of the submarine commander showed lack of judgment, self-control, or willful intent amounting to utter disregard of the rights of a neutral.

According to the sworn statements of the captain of steamer and a seaman who accompanied him to the submarine, the commander of the latter stated that he mistook the steamer for a cruiser. This statement is at variance with the statement in the Austro-Hungarian Government's note that the captain of the submarine asserted a false maneuver on the part of the steamer prompted the submarine to continue to fire.

The captain of the steamer swears that he informed the commander of the submarine that he had only sufficient provisions to reach the port of Algiers, and that he would deliver provisions only under compulsion. He states positively in his affidavit and in conversation with officials of the department that he did not give provisions readily nor did he say it was the duty of one seaman to help another, and that he refused payment because he felt that he was being compelled to deliver food in violation of law. The statement of the captain of the *Petrolite* is entirely at variance with the report of the submarine commander. The correctness of the captain's opinion that the wounded seaman was held as a hostage to guarantee the delivery of food seems clear. Obviously the commander of the submarine had no right to order the seaman to remain on board. The fact that this order was given showed that the commander insisted that food was to be delivered to him, otherwise the seaman would naturally have accompanied the captain back to his vessel. The outrageous conduct of the submarine commander and all the circumstances of the attack on the *Petrolite* warranted the captain in regarding himself as being compelled in order to avoid further violence to deliver food to the commander of the submarine.

In the absence of other and more satisfactory explanation of the attack on the steamer than that contained in the note addressed to you by the foreign office, the Government of the United States is compelled to regard the conduct of the commander of the submarine in attacking the *Petrolite* and in coercing the captain as a deliberate insult to the flag of the United States and an invasion of the rights of American citizens, for which this Government requests that an apology be made; that the commander of the submarine be punished; and that reparation be made for the injuries sustained by the payment of a suitable indemnity.

Please communicate with foreign office in sense of foregoing.

You may add that this Government believes that the Austro-Hungarian Government will promptly comply with these requests, in view of their manifest justness and the high sense of honor of that Government, which would not, it is believed, permit an indignity to be offered to the flag of a friendly power or wrongs to its nationals by an Austro-Hungarian naval officer without making immediate and ample amends.

LANSING.

About this time the question of the armed merchantmen came up. The custom of permitting merchant vessels to arm for defense was contested by Germany. This matter had received careful and detailed attention soon after the war began, as shown by the following diplomatic correspondence with both England and Germany:

DEFENSIVE ARMAMENT AND THE RIGHT OF DEPARTURE FROM NEUTRAL PORTS OF BELLIGERENT MERCHANT SHIPS TO ARM AT SEA.

File No. 763.72111/85.

THE BRITISH CHARGÉ TO THE SECRETARY OF STATE.

No. 252.] BRITISH EMBASSY,
Washington, August 4, 1914.

SIR: In view of the state of war now existing between Great Britain and Germany, I have the honor, under instructions from His Majesty's principal secretary of state for foreign affairs, to make the following communication to you in respect to the arming of any merchant vessels in neutral waters.

As you are aware, it is recognized that a neutral government is bound to use due diligence to prohibit its subjects or citizens from the building and fitting out to order of belligerent vessels intended for warlike purposes and also to prevent the departure of any such vessel from its jurisdiction. The starting point for the universal recognition of this principle was the three rules formulated in article 6 of the treaty between Great Britain and the United States of America for the amicable settlement of all causes of differences between the two countries, signed at Washington on May 8, 1871. These rules, which His Majesty's Government and the United States Government agreed to observe as between themselves in future, are as follows:

"A neutral government is bound—

"First. To use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reason-

able ground to believe is intended to cruise or to carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction to warlike use.

"Secondly. Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

"Thirdly. To exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties."

The above rules may be said to have acquired the force of generally recognized rules of international law, and the first of them is reproduced almost textually in Article VIII of The Hague convention No. 13 of 1907 concerning the rights and duties of neutral powers in case of maritime warfare, the principles of which have been agreed to by practically every maritime State.

It is known, however, that Germany, with whom Great Britain is at war, favors the policy of converting her merchant vessels into armed ships on the high seas, and it is probable, therefore, that attempts will be made to equip and dispatch merchantmen for such conversion from the ports of the United States.

It is probable that, even if the final completion of the measures to fit out merchantmen to act as cruisers may have to be effected on the high seas, most of the preliminary arrangements will have been made before the vessels leave port, so that the warlike purpose to which they are to be put after leaving neutral waters must be more or less manifest before their departure.

In calling your attention to the above-mentioned "Rules of the treaty of Washington" and The Hague convention, I have the honor to state that His Majesty's Government will accordingly hold the United States Government responsible for any damages to British trade or shipping, or injury to British interests generally, which may be caused by such vessels having been equipped at, or departing from, United States ports.

I have, etc., COLVILLE BARCLAY.

File No. 763.72111/87.

THE BRITISH CHARGÉ D'AFFAIRES TO THE SECRETARY OF STATE.

No. 259.] BRITISH EMBASSY,
Washington, August 9, 1914.

SIR: With reference to my note No. 252 of the 4th instant, I have the honor to inform you that I have now received instructions from Sir Edward Grey to make a further communication to you in explanation of the position taken by His Majesty's Government in regard to the question of armed merchantmen.

As you are no doubt aware, a certain number of British merchant vessels are armed, but this is a precautionary measure adopted solely for the purpose of defense, which, under existing rules of international law, is the right of all merchant vessels when attacked.

According to the British rule, British merchant vessels can not be converted into men-of-war in any foreign port, for the reason that Great Britain does not admit the right of any power to do this on the high seas. The duty of a neutral to intern or order the immediate departure of belligerent vessels is limited to actual and potential men-of-war, and, in the opinion of His Majesty's Government, there can therefore be no right on the part of neutral Governments to intern British armed merchant vessels, which can not be converted into men-of-war on the high seas, nor to require them to land their guns before proceeding to sea.

On the other hand, the German Government have consistently claimed the right of conversion on the high seas, and His Majesty's Government therefore maintain their claim that vessels which are adapted for conversion and under German rules may be converted into men-of-war on the high seas should be interned in the absence of binding assurances, the responsibility for which must be assumed by the neutral Government concerned, that they shall not be so converted.

I have, etc.,

COLVILLE BARCLAY.

File No. 763.72111/543.

THE BRITISH CHARGÉ TO THE SECRETARY OF STATE.

No. 264.] BRITISH EMBASSY,
Washington, August 12, 1914.

SIR: With reference to my notes Nos. 252 and 259 of August 4 and August 9, respectively, stating and explaining the position taken up by His Majesty's Government in regard to the question of armed merchantmen, I have the honor to state that I have now been informed by Sir Edward Grey that exactly similar instructions were at the same time issued by him to His Majesty's representatives in practically all neutral countries to address the same communications to the respective Governments to which they were accredited.

I have, etc.,

COLVILLE BARCLAY.

File No. 763.72111/85.

THE SECRETARY OF STATE TO THE BRITISH CHARGÉ D'AFFAIRES.

DEPARTMENT OF STATE,
Washington, August 19, 1914.

SIR: I have the honor to acknowledge the receipt of your communication No. 252 of the 4th inst., which was made to this Government in pursuance of instructions from His Majesty's principal secretary of state for foreign affairs, with respect to the arming of merchant vessels in neutral waters.

The communication states the principles of neutrality, as contained in the treaty signed at Washington on May 8, 1871, by representatives of the United States and Great Britain, and reproduced, as you say, almost textually in Article VIII of The Hague conven-

tion, signed October 18, 1907, concerning the rights and duties of neutral powers in case of maritime warfare, the principles of which have been, as you state, agreed to by practically every maritime power.

The communication next considers the question of conversion of enemy merchantmen on the high seas, a policy which your Government opposes. It is then stated that Germany favors the policy of conversion; that it will probably attempt to use the ports of the United States to equip and dispatch merchantmen for conversion from such ports; and that most of the preliminary arrangements leading to conversion will have to be made within neutral ports before the vessels proceed to the high seas to complete their transformation into vessels of war.

The purpose of the communication is apparently to lay down the principles of law which your Government believe should be applied by the United States in fulfilling its neutral obligations, especially in the matter of conversion of merchant vessels into war vessels. and, assuming these principles to be correct, to tax this Government with damages to British trade or shipping, or injury to British interests generally, if these principles, the correctness of which you assume, are not applied to German merchant vessels "equipped at, or departing from, United States ports."

In acknowledging this communication it does not seem appropriate to enter into any discussion as to what may or what may not be the policy of Germany in the matter of converting its merchant ships which may be within the jurisdiction of the United States into ships of war after they have left American ports and have reached the high seas. The assertion of the right so to convert merchant ships upon the high seas, made by Germany at the second Hague conference and maintained at the London naval conference, does not of itself indicate an intention on the part of the German Government to exercise this right, and this department does not feel justified in its correspondence with foreign Governments to assume, in the absence of specific information, an intention on the part of Germany so to do. The department will, however, carefully examine the facts and circumstances of any particular case when it is called to its attention.

The question of the place where the belligerent right of conversion may be exercised, difficult in itself, is complicated by the fact that there has been a difference of opinion among the maritime States parties to the present war, and that at the conferences to which reference has been made the British delegation stated that there was no rule of international law on the question. Germany and Austria-Hungary insisted at the conferences upon the right to convert merchant vessels upon the high seas. France and Russia, allies of Great Britain in the present war, likewise insisted upon the right so to convert. Great Britain and Belgium, intimately associated with France and Russia in the prosecution of hostilities against Germany and Austria-Hungary, opposed the right of conversion on the high seas at the second Hague conference, where both these nations were represented; and at the London naval conference, to which Belgium was not invited, and in which it did not participate, Great Britain maintained its previous attitude. It is thus seen that the right to convert merchant vessels upon the high seas was asserted in interna-

tional conferences by four of the maritime countries now at war and that two of the maritime nations now at war opposed this contention. It is further seen that the maritime nations at war with Germany and Austria-Hungary are evenly divided on this question.

At the second Hague conference the British delegation, opposing conversion on the high seas, stated that there was no rule of international law on the question; that in its carefully prepared memorandum presented to the powers invited to the London naval conference the British Government held that "no general practice of nations has prevailed in the past on this point from which any principles can be deduced and formulated as the established rules of international law. So far as can be ascertained, there are no precedents on the subject."

In the official report of the conference drafted by Mr. Renault it is stated that agreement on conversion upon the high seas was impossible, and in the report of the British delegates to their Government it is said:

"We were met with a refusal to make any concessions or to abate one jot from the claim to the absolutely unfettered exercise of the right, which its advocates vindicate as a rule forming part of the existing law of nations. In these circumstances we felt that we had no option but to decline to admit the right, and the result is that the question remains an open one."

It is obvious that the subject of conversion must be carefully examined and considered, and in view of these circumstances it is deemed by the Department of State inexpedient to declare a policy as to what measures it will take in a contingency which has not yet arisen, and that it may well content itself, in so far as this matter is concerned, with an acknowledgement of your note.

In the course of your communication it is stated as recognized "that a neutral Government is found to use due diligence to prohibit its subjects or citizens from the building or fitting out, to the order of belligerents vessels intended for warlike purposes, and also to prevent the departure of such vessels from its jurisdiction." It is asserted in this connection that "the starting point for the universal recognition of this principle was the three rules formulated in Article VI of the treaty between Great Britain and the United States of America for the amicable settlement of all causes of difference between the two countries, signed at Washington on May 8, 1871." After quoting the Three Rules of Washington, the note thus continues:

"The above rules may be said to have acquired the force of generally recognized rules of international law, and the first of them is reproduced almost textually in Article VIII of The Hague Convention No. 13 of 1907 concerning the rights and duties of neutral powers in case of maritime warfare, the principles of which have been agreed to by practically every maritime State."

As the communication apparently lays great stress on the expression "due diligence," contained in the Treaty of Washington, it is believed material to the present occasion to quote the following definition of it contained in the Geneva award of 1872:

"The 'due diligence' referred to in the first and third of the said rules ought to be exercised by neutral Governments in exact proportion to the risks to which either of the belligerents may be exposed from a failure to fulfill the obligations of neutrality on their part."

The expression "due diligence" was contained in the draft submitted by the British delegation to The Second Hague Conference, upon which Article VIII was based. Article VIII as finally adopted is as follows:

"ARTICLE VIII.

"A neutral Government is bound to employ the means at its disposal to prevent the fitting out or arming of any vessel within its jurisdiction which it has reason to believe is intended to cruise, or engage in hostile operations against a power with which that Government is at peace. It is also bound to display the same vigilance to prevent the departure from its jurisdiction of any vessel intended to cruise or engage in hostile operations, which had been adapted entirely or partly within the said jurisdiction for use in war."

As the expression "due diligence" was considered obscure, it was rejected, as the learned reporter of the convention, Mr. Louis Renault, says in the elaborate report which accompanies the convention, and which is, in accordance with the practice of international conferences, to be considered as the official and authoritative interpretation of the convention which it explains, justifies, and interprets. "The expression of due diligence," he says, "which has become celebrated by its obscurity since its solemn interpretation, was rejected. The convention merely requires in the first instance (On se contente de dire d'abord) that the neutral is bound to employ the means at its disposal * * * then, to display the same vigilance."

It is to be presumed that Article VIII which "reproduced almost textually" the first rule of the Treaty of Washington, is to be interpreted in the sense in which Mr. Renault's report shows it to have been adopted, especially as Great Britain and the United States have ratified the convention without any objection or reservation as to Article VIII thereof.

It seems obvious therefore that by neither the terms nor the interpretation of the provisions of the treaties on this point is the United States bound to assume the attitude of an insurer. Consequently the United States disclaims as a correct statement of its responsibility the assertion in your note that "His Majesty's Government will accordingly hold the United States Government responsible for any damages to British trade or shipping, or injury to British interests generally, which may be caused by such vessels having been equipped at, or departing from, United States ports."

The United States has always looked upon the Three Rules of Washington as declaratory of international law, and as the necessary and natural consequences of the doctrine of neutrality, proclaimed and enforced by the United States since the wars of the French Revolution, to which Great Britain was a party. The Three Rules can, in the opinion of this Government, only be considered as the starting point of the doctrine of that degree of diligence which a neutral should observe in the sense that its recognition by Great Britain in an important international controversy called marked attention to an existing doctrine, and furnished an incentive to its incorporation and definition in The Hague Convention concerning the rights and duties of neutral powers in case of maritime warfare.

The United States, since the earliest days of its existence, has been as solicitous of its neutral duties as of its neutral rights, and without further consideration of your communication at this time I request you to state to your Government that there is no reason to anticipate that the United States will be less mindful of its duties or of its rights as a neutral in the present case than it has been in the past.

I have, etc.,

W. J. BRYAN.

File No. 763.72111/87.

THE SECRETARY OF STATE TO THE BRITISH CHARGÉ.

DEPARTMENT OF STATE,
Washington, August 20, 1914.

SIR: I have the honor to acknowledge the receipt of your communication No. 259 of the 9th instant, made to the Department of State under instructions from Sir Edward Grey, in regard to the question of armed merchantmen, informing this Government that a certain number of the British merchant vessels are armed as a precautionary measure for the purpose of defense, and maintaining that such merchant vessels can not be considered as vessels of war or subjected to the treatment properly accorded to vessels of the latter category in neutral ports.

In the last paragraph of this communication you call attention to the right claimed by the German Government, in accordance with its rules, to convert its merchant vessels upon the high seas into vessels of war, and the communication states the contention of the British Government that the neutral Government concerned is taxed with responsibility if it does not intern such vessels, in the absence of binding assurances that they will not be converted into men-of-war on the high seas.

The Department of State acknowledges without comment the statement of British policy in such matters and also the British understanding of Germany's intentions and policy, but as to the responsibility of the United States in the premises, you are referred to department's note of the 19th instant replying to your note No. 252 of the 4th instant.

I have, etc.,

For the Secretary of State:

ROBERT LANSING.

File No. 763.72111/88.

THE BRITISH AMBASSADOR TO THE SECRETARY OF STATE.

No. 289.] BRITISH EMBASSY,
Washington, August 25, 1914.

SIR: With reference to Mr. Barclay's notes Nos. 252 and 259 of the 4th and 9th of August, respectively, fully explaining the posi-

tion taken up by His Majesty's Government in regard to the question of armed merchantmen, I have the honor, in view of the fact that a number of British armed merchantmen will now be visiting United States ports, to reiterate that the arming of British merchantmen is solely a precautionary measure adopted for the purpose of defense against attack from hostile craft.

I have at the same time been instructed by His Majesty's Principal Secretary of State for Foreign Affairs to give the United States Government the fullest assurances that British merchant vessels will never be used for purposes of attack; that they are merely peaceful traders armed only for defense; that they will never fire unless first fired upon; and that they will never under any circumstances attack any vessel.

I have, etc. CECIL SPRING-RICE.

File No. 763.72111/88.

THE SECRETARY OF STATE TO THE BRITISH AMBASSADOR.

DEPARTMENT OF STATE,
Washington, August 29, 1914.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 25th instant, in which, referring to previous correspondence, you state that, in view of the fact that a number of British armed merchantmen will now be visiting United States ports, you desire to reiterate that the arming of British merchantmen is solely a precautionary measure adopted for the purpose of defense against attack from hostile craft. You add that you have been instructed by His Majesty's principal secretary of state for foreign affairs to give the Government of the United States the fullest assurances that British merchant vessels will never be used for purposes of attack, that they are merely peaceful traders armed only for defense, that they will never fire unless first fired upon, and that they will never under any circumstances attack any vessel.

I have, etc., W. J. BRYAN.

File No. 763.72111/144.

THE BRITISH AMBASSADOR TO THE SECRETARY OF STATE.

No. 302.] BRITISH EMBASSY,
Washington, September 4, 1914.

SIR: I have the honor to inform you that, at the request of your department, I drew the attention of my Government to the fact that two British merchant vessels—the *Adriatic* and the *Merrion*—were at present in United States ports, and that they were carrying guns—the former four and the latter six. I added that the fact of these vessels carrying guns was likely to lead to the raising of difficult questions as to the enforcement by the United States Government of the neutrality of American ports, although an assurance had been given that these guns would only be used for defensive purposes and in case the merchant vessels in question were attacked by an enemy ship when on a commercial voyage.

I have now received a reply from Sir Edward Grey in which he informs me that His Majesty's Government hold the view that it is not in accordance with neutrality and international law to detain in neutral ports merchant vessels armed with purely defensive armaments. But, in view of the fact that the United States Government is detaining armed merchant vessels prepared for offensive warfare, and in order to avoid the difficult questions of the character and degree of armament which would justify detention, His Majesty's Government have made arrangements for landing the guns of the *Merrion*, the *Adriatic* having already sailed before the orders reached her. In the case of the latter ship the passenger list and cargo had proved that she was proceeding to sea on ordinary commercial business. These and other papers relative to the case will be duly communicated to your department.

This action has been taken without prejudice to the general principle which His Majesty's Government has enunciated and to which they adhere.

It is presumed that no objection will be raised by your Government to the guns being shipped subsequently to England as cargo in some vessel without mountings or ammunition.

I have, etc.,

CECIL SPRING-RICE.

File No. 763.72111/156.

MEMORANDUM FROM THE BRITISH EMBASSY.

BRITISH EMBASSY,
Washington, September 7, 1914.

The British Ambassador presents his compliments to the Secretary of State of the United States and, with reference to his note No. 302 of September 4, has the honor to state that he is informed by the British Consul General that the steamship *Adriatic*, which sailed from New York on September 3 with four guns mounted and 200 rounds of ammunition, took 28 first-class passengers, 43 second, and 89 third. She also took 637 bags of mail and a general cargo of provisions and manufactured goods. She had no war material on board and no army reservists.

These data bear out the assurances that the *Adriatic* is bound on a peaceful commercial voyage and that her armament is destined solely for defensive purposes.

File No. 763.72111/410.

MEMORANDUM FROM THE BRITISH EMBASSY.

BRITISH EMBASSY,
Washington, September 9, 1914.

The German Government have openly entered upon the policy of arming merchant ships as commerce destroyers and even claim the right to carry out the process of arming and equipping such merchant ships in neutral harbors or on the high seas. It is in consequence of this that the British Admiralty have been compelled, in accordance

with the practice followed in the great wars of history, to arm a certain number of British merchant ships for self-defense only.

The practice of arming ships in self-defense is very old and has been ordered by Royal proclamation in England from early in the seventeenth century. During the Napoleonic wars the right to arm in self-defense was recognized by British and United States prize courts in the cases of the *Catherine Elizabeth* (British) and the *Nereide* (United States). The right of a merchant ship of a belligerent to carry arms and resist capture is clearly and definitely laid down in modern times. The right of resistance of merchant vessels is recognized by the United States Naval War Code, by the Italian Code for Mercantile Marine, and by the Russian Prize Regulations. Writers of authority in many European countries also recognize the right. To mention a German authority, it may be stated that the late Dr. Perels, at one time legal adviser to the German Admiralty, quotes with approval Article 10 of the United States Naval War Code, which states "the prisoners of merchant vessels of an enemy who in self-defense and in protection of the vessel placed in their charge resist an attack, are entitled to the status of prisoners of war." The Institute of International Law at its meeting in 1913 prepared and adopted a manual of the laws of naval warfare, Article 10 of which expressly declared that private ships are allowed to employ force to defend themselves against the attack of an enemy ship.

A merchant vessel armed purely for self-defense is therefore entitled under international law to enjoy the status of a peaceful trading ship in neutral ports, and His Majesty's Government do not ask for better treatment for British merchant ships in this respect than might be accorded to those of other powers. They consider that only those merchant ships which are intended for use as cruisers should be treated as ships of war and that the question whether a particular ship carrying an armament is intended for offensive or defensive action must be decided by the simple criterion whether she is engaged in ordinary commerce and embarking cargo and passengers in the ordinary way. If so, there is no rule in international law that would justify such vessel, even if armed, being treated otherwise than as a peaceful trader.

File No. 763.72111/411.

MEMORANDUM FROM THE BRITISH EMBASSY.

BRITISH EMBASSY,
Washington, September 9, 1914.

In a memorandum of to-day's date the British Ambassador has set forth the grounds upon which His Majesty's Government hold that British merchant vessels which are armed for defensive purposes only are entitled to be treated as peaceful trading vessels.

In urging this view upon the consideration of the United States Government the British Ambassador is instructed to state that it is believed that German merchant vessels with offensive armament have escaped from American ports, especially ports in South America, to prey upon British commerce in spite of all the precautions taken. German cruisers in the Atlantic continue, by one means or another,

to obtain ample supplies of coal shipped to them from neutral ports, and if the United States Government take the view that British merchant vessels which are bona fide engaged in commerce and carry guns at the stern only are not permitted purely defensive armament, unavoidable injury may ensue to British interests and indirectly also to United States trade which will be deplorable.

File No. 763.72111/226a.

THE ACTING SECRETARY OF STATE TO THE GERMAN AMBASSADOR.

(Same to the British, French, and Japanese ambassadors in Washington, and the Belgian minister.)

DEPARTMENT OF STATE,
Washington, September 19, 1914.

DEAR MR. AMBASSADOR: I am inclosing for your information two memoranda which the department has issued to-day and which define the general rules which this Government will follow in dealing with cases involving the status of armed merchant vessels visiting American ports, and with cases of merchant vessels suspected of carrying supplies to belligerent warships from American ports.

I am, etc.,

ROBERT LANSING.

[Inclosure 1.]

THE STATUS OF ARMED MERCHANT VESSELS.

A. A merchant vessel of belligerent nationality may carry an armament and ammunition for the sole purpose of defense without acquiring the character of a ship of war.

B. The presence of an armament and ammunition on board a merchant vessel creates a presumption that the armament is for offensive purposes, but the owners or agents may overcome this presumption by evidence showing that the vessel carries armament solely for defense.

C. Evidence necessary to establish the fact that the armament is solely for defense and will not be used offensively, whether the armament be mounted or stowed below, must be presented in each case independently at an official investigation. The result of the investigation must show conclusively that the armament is not intended for, and will not be used in, offensive operations.

Indications that the armament will not be used offensively are:

1. That the caliber of the guns carried does not exceed 6 inches.
2. That the guns and small arms carried are few in number.
3. That no guns are mounted on the forward part of the vessel.
4. That the quantity of ammunition carried is small.
5. That the vessel is manned by its usual crew, and the officers are the same as those on board before war was declared.
6. That the vessel intends to and actually does clear for a port lying in its usual trade route, or a port indicating its purpose to continue in the same trade in which it was engaged before war was declared.

7. That the vessel takes on board fuel and supplies sufficient only to carry it to its port of destination, or the same quantity substantially which it has been accustomed to take for a voyage before war was declared.

8. That the cargo of the vessel consists of articles of commerce unsuited for the use of a ship of war in operations against an enemy.

9. That the vessel carries passengers who are as a whole unfitted to enter the military or naval service of the belligerent whose flag the vessel flies, or of any of its allies, and particularly if the passenger list includes women and children.

10. That the speed of the ship is slow.

D. Port authorities, on the arrival in a port of the United States of an armed vessel of belligerent nationality, claiming to be a merchant vessel, should immediately investigate and report to Washington on the foregoing indications as to the intended use of the armament, in order that it may be determined whether the evidence is sufficient to remove the presumption that the vessel is, and should be treated as, a ship of war. Clearance will not be granted until authorized from Washington, and the master will be so informed upon arrival.

E. The conversion of a merchant vessel into a ship of war is a question of fact which is to be established by direct or circumstantial evidence of intention to use the vessel as a ship of war.

DEPARTMENT OF STATE, *September 19, 1914.*

[Inclosure 2.]

MERCHANT VESSELS SUSPECTED OF CARRYING SUPPLIES TO BELLIGERENT VESSELS.

1. A base of operations for belligerent warships is presumed when fuel or other supplies are furnished at an American port to such warships more than once within three months since the war began, or during the period of the war, either directly or by means of naval tenders of the belligerent or by means of merchant vessels of belligerent or neutral nationality acting as tenders.

2. A common rumor or suspicion that a merchant vessel laden with fuel or other naval supplies intends to deliver its cargo to a belligerent warship on the high seas, when unsupported by direct or circumstantial evidence, imposes no duty on a neutral Government to detain such merchant vessel even for the purpose of investigating the rumor or suspicion, unless it is known that the vessel has been previously engaged in furnishing supplies to a belligerent warship.

3. Circumstantial evidence supporting a rumor or suspicion that a merchant vessel intends to furnish a belligerent warship with fuel or other supplies on the high seas is sufficient to warrant detention of the vessel until its intention can be investigated in the following cases:

(a) When a belligerent warship is known to be off the port at which the merchant vessel is taking on cargo suited for naval supplies, or when there is a strong presumption that the warship is off the port.

(b) When the merchant vessel is of the nationality of the belligerent whose warship is known to be off the coast.

(c) When a merchant vessel which has on a previous voyage between ports of the United States and ports of other neutral States failed to have on board at the port of arrival a cargo consisting of naval supplies shipped at the port of departure seeks to take on board a similar cargo.

(d) When coal or other supplies are purchased by an agent of a belligerent Government and shipped on board a merchant vessel which does not clear for a port of the belligerent but for a neighboring neutral port.

(e) When an agent of a belligerent is taken on board a merchant vessel having a cargo of fuel or other supplies and clearing for a neighboring neutral port.

4. The fact that a merchant vessel, which is laden with fuel or other naval supplies, seeks clearance under strong suspicion that it is the intention to furnish such fuel or supplies to a belligerent warship is not sufficient ground to warrant its detention, if the case is isolated and neither the vessel nor the warship for which the supplies are presumably intended has previously taken on board similar supplies since the war began or within three months during the period of the war.

5. The essential idea of neutral territory becoming the base for naval operations by a belligerent is repeated, departure from such territory by a naval tender of the belligerent or by a merchant vessel in belligerent service which is laden with fuel or other naval supplies.

6. A merchant vessel, laden with naval supplies, clearing from a port of the United States for the port of another neutral nation, which arrives at its destination and there discharges its cargo, should not be detained if, on a second voyage, it takes on board another cargo of similar nature.

In such a case the port of the other neutral nation may be a base for the naval operations of a belligerent. If so, and even if the fact is notorious, this Government is under no obligation to prevent the shipment of naval supplies to that port. Commerce in munitions of war between neutral nations can not, as a rule, be a basis for a claim of unneutral conduct, even though there is a strong presumption or actual knowledge that the neutral State in whose port the supplies are discharged is permitting its territory to be used as a base of supply for belligerent warships. The duty of preventing an unneutral act rests entirely upon the neutral State whose territory is being used as such a base.

In fact, this principle goes further in that, if the supplies were shipped directly to an established naval base in the territory or under the control of a belligerent, this Government would not be obligated by its neutral duty to limit such shipments or detain or otherwise interfere with the merchant vessels engaged in that trade. A neutral can only be charged with unneutral conduct when the supplies furnished to a belligerent warship or furnished directly to it in a port of the neutral or through naval tenders or merchant vessels acting as tenders departing from such port.

7. The foregoing propositions do not apply to furnishing munitions of war included in absolute contraband, since in no event can a belligerent warship take on board such munitions in neutral waters,

nor should it be permitted to do so indirectly by means of naval tenders or merchant vessels acting as such tenders.

DEPARTMENT OF STATE, *September 19, 1914.*

File No. 763.72111/156.

THE ACTING SECRETARY OF STATE TO THE BRITISH AMBASSADOR.

No. 500.] DEPARTMENT OF STATE,
Washington, September 26, 1914.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 4th instant, in which, with reference to the presence in American ports of the British armed merchant vessels *Adriatic* and *Merion*, you advise the department of the receipt of a dispatch from Sir Edward Grey, in which he states that His Majesty's Government holds the view that it is not in accordance with neutrality and international law to detain in neutral ports merchant vessels armed with purely defensive armaments.

In reply I have the honor to state that this Government has had the matter of the status of armed merchant vessels under consideration, and that it has already made a public announcement thereon.

In this relation I have also the honor to acknowledge the receipt of your embassy's memorandum of the 7th instant, announcing the departure of the *Adriatic* from New York, and pointing out that, as she had no war material on board and carried no army reservists, these data bear out the assurances that the *Adriatic* was bound on a peaceful commercial voyage and that her armament was destined solely for defensive purposes.

I have, etc.,

ROBERT LANSING.

File No. 763.72111/227.

THE SECRETARY OF STATE TO AMBASSADOR GERARD.

No. 143.] DEPARTMENT OF STATE,
Washington, September 29, 1914.

SIR: I transmit herewith, for the information of the German Government, copies of two memoranda issued by this department which define the general rules which the Government of the United States will follow in dealing with cases involving the status of armed merchant vessels visiting American ports and with cases of merchant vessels suspected of carrying supplies to belligerent warships from American ports.

Copies of these memoranda were also sent to the German ambassador here, and it is at his request that the copies herewith are sent for communication to his Government.

I am, etc.

For the Secretary of State:

ROBERT LANSING.

File No. 763.72111/473.

AMBASSADOR GERARD TO THE SECRETARY OF STATE.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, October 15, 1914—7 p. m.

Mr. Gerard transmits the following memorandum, which he says he has received from the German foreign office:

"An official notice appearing in the Westminster Gazette of September 21, 1914, states that the Department of State at Washington has ruled that ships of belligerent nations when equipped with ammunition and armament shall be treated, nevertheless, while in American ports, as merchant ships, provided the armament serves for defensive purposes only. This ruling wholly fails to comply with the principles of neutrality. The equipment of British merchant vessels with artillery is for the purpose of making armed resistance against German cruisers. Resistance of this sort is contrary to international law, because in a military sense a merchant vessel is not permitted to defend itself against a war vessel, an act of resistance giving the warship * * * [omission] with crew and passengers. It is a question whether or not ships thus armed should be admitted into ports of a neutral country at all. Such ships, in any event, should not receive any better treatment in neutral ports than a regular warship, and should be subject at least to the rules issued by neutral nations restricting the stay of a warship. If the Government of the United States considers that it fulfills its duty as a neutral nation by confining the admission of armed merchant ships to such ships as are equipped for defensive purposes only, it is pointed out that so far as determining the warlike character of a ship is concerned the distinction between the defensive and offensive is irrelevant. The destination of a ship for use of any kind in war is conclusive, and restrictions as to the extent of armament affords no guaranty that ships armed for defensive purposes only will not be used for offensive purposes under certain circumstances."

File No. 763.72111/473.

THE ACTING SECRETARY OF STATE TO AMBASSADOR GERARD.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 7, 1914.

Your 515, October 15. The Government of the United States is obliged to dissent from the views of the German Government as expressed in your telegram in regard to the treatment to be accorded armed merchant vessels of belligerent nationality in neutral ports. The practice of a majority of nations and the concensus of opinion by the leading authorities on international law, including many German writers, support the proposition that merchant vessels may arm

for defense without losing their private character and that they may employ such armament against hostile attack without contravening the principles of international law.

The purpose of an armament on a merchant vessel is to be determined by various circumstances, among which are the number and position of the guns on the vessel, the quantity of ammunition and fuel, the number and sex of the passengers, the nature of the cargo, etc. Tested by evidence of this character the question as to whether an armament on a merchant vessel is intended solely for defensive purposes may be readily answered and the neutral government should regulate its treatment of the vessel in accordance with the intended use of the armament.

This Government considers that in permitting a private vessel having a general cargo, a customary amount of fuel, an average crew, and passengers of both sexes on board, and carrying a small armament and a small amount of ammunition, to enjoy the hospitality of an American port as a merchant vessel, it is in no way violating its duty as a neutral. Nevertheless it is not unmindful of the fact that the circumstances of a particular case may be such as to cause embarrassment and possible controversy as to the character of an armed private vessel visiting its ports. Recognizing, therefore, the desirability of avoiding a ground of complaint this Government, as soon as a case arose, while frankly admitting the right of a merchant vessel to carry a defensive armament, expressed its disapprobation of a practice which compelled it to pass upon a vessel's intended use, which opinion if proven subsequently to be erroneous might constitute a ground for a charge of unneutral conduct.

As a result of these representations no merchant vessels with armaments have visited the ports of the United States since the 10th of September. In fact, from the beginning of the European war but two armed private vessels have entered or cleared from ports of this country, and as to these vessels their character as merchant vessels was conclusively established.

Please bring the foregoing to the attention of the German Government, and in doing so express the hope that they will also prevent their merchant vessels from entering the ports of the United States carrying armaments even for defensive purposes though they may possess the right to do so by the rules of international law.

LANSING.

In August of last year, 1916, the status of belligerent submarines in American waters was announced.

File No. 763.72111/3958.

MEMORANDUM FROM THE FRENCH EMBASSY.*

(Identic memoranda were received from the embassies of Great Britain, Russia, and Japan, and on Sept. 2, 1916, from the Italian Embassy, and on Sept. 11, 1916, from the Portuguese Legation.)

[Translation.]

FRENCH EMBASSY,
Washington, August 21, 1916.

MEMORANDUM.

In the presence of the development of submarine navigation, under existing circumstances and by reason of what may unfortunately be expected from enemy submarines, the allied governments deem it necessary, in order to protect their belligerent rights and the freedom of commercial navigation, as well as to remove chances of conflict, to exhort the neutral governments, if they have not already done so, to take efficacious measures tending to prevent belligerent submarines, regardless of their use, to avail themselves of neutral waters, roadsteads, and harbors.

In the case of submarines the application of the principles of international law offers features that are as peculiar as they are novel, by reason, on the one hand, of the facility possessed by such craft to navigate and sojourn in the seas while submerged and thus escape any supervision or surveillance, and, on the other hand, of the impossibility to identify them and determine their national character, whether neutral or belligerent, combatant or innocent, and to put out of consideration the power to do injury that is inherent in their very nature.

It may be said, lastly, that any submarine war vessel far away from its base, having at its disposal a place where it can rest and replenish its supplies, is afforded, by mere rest obtained, so many additional facilities that the advantages it derives therefrom turn that place into a veritable basis of naval operations.

In view of the present condition of things the allied governments hold that—

Submarine vessels must be excluded from the benefit of the rules heretofore accepted in international law regarding the admission and sojourn of war and merchant vessels in the neutral waters, roadsteads, and harbors; any submarine of the belligerents that once enters a neutral harbor must be held there.

The allied governments take this opportunity to warn the neutral powers of the great danger to neutral submarines attending the navigation of waters visited by the submarines of belligerents.

File No. 763.72111/3958.

MEMORANDUM TO THE FRENCH EMBASSY.

(Same to the Embassies of Great Britain, Russia, and Japan, and, mutatis mutandis, to the Italian Embassy, Sept. 8, 1916, and to the Portuguese Legation, Sept. 13, 1916.)

DEPARTMENT OF STATE,
Washington, August 31, 1916.

MEMORANDUM.

The Government of the United States has received the identic memoranda of the Governments of France, Great Britain, Russia, and Japan in which neutral Governments are exhorted "to take efficacious measures tending to prevent belligerent submarines, regard-

less of their use, to avail themselves of neutral waters, roadsteads, and harbors." These Governments point out the facility possessed by such craft to avoid supervision or surveillance or determination of their national character and their power "to do injury that is inherent in their very nature," as well as the "additional facilities" afforded by having at their disposal places where they can rest and replenish their supplies. Apparently on these grounds the allied Governments hold that "Submarine vessels must be excluded from the benefit of the rules heretofore accepted under international law regarding the admission and sojourn of war and merchant vessels in neutral waters, roadsteads, or harbors; any submarine of a belligerent that once enters a neutral harbor must be held there," and therefore the allied Governments "warn neutral powers of the great danger to neutral submarines attending the navigation of waters visited by the submarines of belligerents."

In reply the Government of the United States must express its surprise that there appears to be an endeavor of the allied powers to determine the rule of action governing what they regard as a "novel situation" in respect to the use of submarines in time of war and to enforce acceptance of that rule, at least in part, by warning neutral powers of the great danger to their submarines in waters that may be visited by belligerent submarines. In the opinion of the Government of the United States the allied powers have not set forth any circumstances, nor is the Government of the United States at present aware of any circumstances, concerning the use of war or merchant submarines which would render the existing rules of international law inapplicable to them. In view of this fact and of the notice and warning of the allied powers announced in their memoranda under acknowledgment it is incumbent upon the Government of the United States to notify the Governments of France, Great Britain, Russia, and Japan that, so far as the treatment of either war or merchant submarines in American waters is concerned, the Government of the United States reserves its liberty of action in all respects and will treat such vessels as, in its opinion, becomes the action of a power which may be said to have taken the first steps toward establishing the principles of neutrality and which for over a century has maintained those principles in the traditional spirit and with the high sense of impartiality in which they were conceived.

In order, however, that there should be no misunderstanding as to the attitude of the United States, the Government of the United States announces to the allied powers that it holds it to be the duty of belligerent powers to distinguish between submarines of neutral and belligerent nationality, and that responsibility for any conflict that may arise between belligerent warships and neutral submarines on account of the neglect of a belligerent to so distinguish between these classes of submarines must rest entirely upon the negligent power.

On January 18, 1916, our Government addressed its confidential note to all entente belligerents on the issue of defensively armed merchant vessels. It is as follows:

It is a matter of deepest interest to my Government to bring to an end, if possible, the dangers of life which attend the use of sub-

marines as at present employed in destroying enemy commerce on the high seas, since on any merchant vessel of belligerent nationality there may be citizens of the United States who have taken passage or members of the crew in the exercise of their recognized rights as neutrals. I assume your Government is equally solicitous to protect their nationals from the exceptional hazards which are presented by their passage on merchant vessels through these portions of the high seas in which undersea craft of the enemy are operating.

While I am fully alive to the appalling loss of life among noncombatants, regardless of their sex, which has resulted from the present method of destroying merchant vessels without removing the persons on board to places of safety, and while I view that practice as contrary to those humane principles which should control belligerents in the conduct of their naval operations, I do not feel that a belligerent should be deprived of the proper use of submarines in the invasion of commerce, since those instruments of war have proved their effectiveness in this particular branch of warfare on the high seas.

In order to bring submarine warfare within the general rules of international law and the principles of humanity without destroying their efficiency in the destruction of commerce, I believe that a formula may be found which, though it may require slight modification of the precedent generally followed by nations prior to the employment of the submarine, will appeal to the sense of justice and fairness of all the belligerents in the present war.

Your Government will understand that in seeking the formula or rule of this nature I approach it of necessity from the point of view of a neutral, but I believe that it will be equally efficacious in preserving the lives of noncombatants on merchant vessels of belligerent nationalities.

My comments on this subject are predicted on the following propositions:

First. A noncombatant has a right to traverse the high seas in a merchant vessel entitled to fly a belligerent flag, to rely upon the observance of the rules of international law and principles of humanity, and if the vessel is approached by the naval vessel of another belligerent the merchant vessel of enemy nationality should not be attacked without being ordered to stop.

Second. An enemy merchant vessel, when ordered to do so by a belligerent submarine, should immediately stop.

Third. Such vessel should not be attacked after being ordered to stop unless it attempts to flee or to resist. In case it ceases to flee or to resist the attack should be discontinued.

Fourth. In the event that it is impossible to place a prize crew on board of an enemy merchant vessel or to convoy her into port the vessel may be sunk, provided the crew and passengers have been removed to a place of safety.

In complying with the foregoing principles, which, in my opinion, embody the principal rule, the strict observance of which will insure the life of a noncombatant on a merchant vessel which is intercepted by a submarine, I am not unmindful of the obstacles which would be met by undersea craft as commerce destroyers.

Prior to the year 1915 belligerent operations against enemy commerce on the high seas had been conducted with cruisers carrying

heavy armaments. In these conditions international law appeared to permit a merchant vessel to carry armament for defensive purposes without lessening its character as a private merchant vessel. This right seems to have been predicated on the superior defensive strength of ships of war, and the limitation of armament to have been dependent on the fact that it could not be used effectively in offensive against enemy naval vessels, while it could defend the merchantmen against the generally inferior armament of piratical ships and privateers.

The use of the submarine, however, has changed these relations. Comparison of the defensive strength of a cruiser and a submarine shows that the latter, relying for protection on its power to submerge, is almost defenseless in point of construction. Even a merchant ship carrying a small-caliber gun would be able to use it effectively against the submarine.

Moreover, pirates and sea rovers have been swept from the main trade channels of the sea and privateering has been abolished. Consequently the placing of guns on merchantmen at the present date of submarine warfare can be explained only on the ground of a purpose to render merchantmen superior in force to submarines and to prevent warning and visit and search by them. Any armament, therefore, on a merchant vessel would seem to have the character of an offensive armament.

If a submarine is required to stop and search a merchant vessel on the high seas, and in case it is found that she is of an enemy character and that conditions necessitate her destruction and the removal to a place of safety of persons on board, it would not seem just nor reasonable that the submarine should be compelled, while complying with these requirements, to expose itself to almost certain destruction by the guns on board the merchant vessel.

It would therefore appear to be a reasonable and reciprocally just arrangement if it could be agreed by the opposing belligerents that submarines should be caused to adhere strictly to the rules of international law in the matter of stopping and searching merchant vessels, determining their belligerent nationality, and removing the crews and passengers to places of safety before sinking the vessels as prizes of war, and that merchant vessels of belligerent nationality should be prohibited from carrying any armament whatsoever.

In proposing this formula as a basis of conditional declarations by the belligerent Government I do so in the full conviction that each Government will consider primarily the humane purpose of saving the lives of innocent people rather than the insistence upon doubtful legal rights which may be denied on account of new conditions.

I would be pleased to be informed whether your Government would be willing to make such a declaration conditioned upon your enemies making a similar declaration.

I should say that my Government is impressed with the reasonableness of the argument that a merchant vessel carrying an armament of any sort, in view of the character of the submarine warfare and the defensive weakness of undersea craft, should be held to be an auxiliary cruiser and so treated by a neutral as well as by a belligerent Government, and is seriously considering instructing its officials accordingly.

The contents of this note was made public on the 18th of February, 1916. Ten days before this note was made public, and just one year from the day of our "strict accountability" note, Germany announced her intention to attack armed merchantmen without warning:

BERLIN ATTITUDE TO U-BOAT WAR—TEXT OF GERMAN WARNING TO NEUTRALS AND EVIDENCE BACKING IT IS GIVEN OUT—ATTACKS ON SUBMARINES—GERMAN DETAILS OF CLASHES WITH ARMED MERCHANT SHIPS OF ALLIES—INSTRUCTIONS THEY FOUND—DOCUMENTS TAKEN FROM THE ADMIRALTY TRANSPORT "WOODFIELD" MADE PUBLIC IN WASHINGTON.

WASHINGTON, *March 17.*

Frank L. Polk, Acting Secretary of State, to-day made public the official text of the memorandum issued by the German Government on February 10, which announced to the neutral powers the purpose of Germany to treat all armed enemy merchantmen as belligerents liable to attack without warning after February 29.

At the same time the State Department made public for the first time the official copies of all the so-called "appendices" to the memorandum in the form of a dozen exhibits, embracing what are declared by the German Government to be secret instructions issued by the British Admiralty to British merchant ships armed for defense, advising them to use their guns against enemy submarines pursuing or approaching them. One appendix is a recital of instances in which merchant ships are alleged to have fired on German and Austrian submarines.

The alleged secret instructions covered by these exhibits are declared to have been found on the British steamer *Woodfield*, which was sunk by a submarine in the western Mediterranean on November 3 last and on the British steamer *Linkmoor*. These instructions differ materially from the British version of the Admiralty orders to armed merchantmen, the full text of which was made public by the British Admiralty.

At the outbreak of the war the German Government, acting upon the suggestion of the United States, immediately expressed its readiness to ratify the declaration of London. At that time a German prize code had already been issued, which was entirely—and without modification—based upon rules of the declaration of London. Germany thereby proved her willingness to recognize full and existing rules of international law, which insure the freedom of the sea for the legitimate trade of neutral nations not only among themselves but also with belligerent countries.

GERMANY UTILIZES NEW WEAPON.

Great Britain, on the other hand, declined to ratify the declaration of London, and after the outbreak of the war began to restrict the legitimate trade of the neutrals in order to hit Germany. The contraband provisions were systematically extended on August 5 and 20, September 21, and October 29, 1914. On November 3, 1914, the order of the British Admiralty followed, declaring the whole North

Sea a war zone, in which commercial shipping would be exposed to most serious danger from mines and men-of-war. Protests from neutrals were of no avail, and from that time on the freedom of neutral commerce with Germany was practically destroyed.

Under these circumstances Germany was compelled to resort, in February, 1915, to reprisals in order to fight her opponent's measures, which were absolutely contrary to international law. She chose for this purpose a new weapon, the use of which had not yet been regulated by international law, and in doing so could and did not violate any existing rules, but only took into account the peculiarity of this new weapon—the submarine boat.

NEW DANGER TO NEUTRALS.

The use of the submarine naturally necessitated a restriction of the free movement of neutrals and constituted a danger for them which Germany intended to ward off by a special warning analogous to the warning England had given regarding the North Sea.

As both belligerents—Germany in her note of February 17 and Great Britain in those of February 18 and 20, 1915—claimed that their proceeding was only enacted in retaliation for the violation of international law by their opponents, the American Government approached both parties for the purpose of trying to reestablish international law as it had been in force before the war. Germany was asked to adapt the use of her new weapon to the rules which had been existing for the former naval weapons, and England not to interfere with the food supplies intended for the noncombatant German population and to admit their distribution under American supervision.

GERMANY OFFERS TO COMPLY.

Germany, on March 1, 1915, declared her willingness to comply with the proposal of the American Government, while England, on the other hand, declined to do so. By the order in council of March 11, 1915, Great Britain abolished even what had remained of the freedom of neutral trade with Germany and her neutral neighbors. England's object was to starve Germany into submission by these illegal means.

Germany, after neutral citizens had lost their lives against the wish and intention, nevertheless, in the further course of the war, complied with the wishes of the American Government regarding the use of her submarines. The rights of neutrals regarding legal trading were, in fact, nowhere limited by Germany.

Then England made it impossible for submarines to conform with the old rules of international law by arming nearly all merchantmen and by ordering the use of guns on merchant vessels for attack. Photographic reproductions of those instructions have been transmitted to neutral Governments with the memorandum of the German Government of February 8, 1916. These orders are obviously in contradiction with the note delivered by the British ambassador in Washington to the American Government on August 25, 1914.

On account of the proposals made by the United States on January 23 (18), 1916, regarding disarmament, the Imperial Government

hoped that these facts would enable the neutral Governments to obtain the disarmament of the merchant ships of her opponents. The latter, however, continued with great energy to arm their merchantmen with guns.

SHIELDED BY AMERICANS.

The principle of the United States Government not to keep their citizens off belligerent merchant ships has been used by Great Britain and her allies to arm merchant ships for offensive purposes. Under these circumstances merchantmen can easily destroy submarines, and if their attack fails still consider themselves in safety by the presence of American citizens aboard.

The order to use arms on British merchantmen was supplemented by instructions to the masters of such ships to hoist false flags and to ram U boats. Reports on payments of premiums and bestowals of decorations to successful masters of merchantmen show the effects of these orders. England's allies have adopted this position.

SITUATION CONFRONTING GERMANY.

Now Germany is facing the following facts:

(a) A blockade contrary to international law (compare American note to England of Nov. 5, 1915) has for one year been keeping neutral trade from German ports and is making German exports impossible.

(b) For 18 months, through the extending of contraband provisions in violation of international law (compare American note to England of Nov. 5, 1915) the over-seas trade of neighboring neutral countries, so far as Germany is concerned, has been hampered.

(c) The interception of mails in violation of international law (compare American memorandum to England of Jan. 10, 1916) is meant to stop any intercourse of Germany with foreign countries.

ATTEMPT TO STARVE NATION.

(d) England, by systematically and increasingly oppressing neutral countries, following the principle of "might before right," has prevented neutral trade on land with Germany so as to complete the blockade of the central powers, intended to starve their civil population.

(e) Germans met by our enemies on the high seas are deprived of their liberty, no matter whether they are combatants or noncombatants.

(f) Our enemies have armed their merchant vessels for offensive purposes, theoretically making it impossible to use our U-boats according to the principles set forth in the London declaration (compare American memorandum of Feb. 8, 1916).

TRADE CUT OFF BY BRITAIN.

The English White Book of January 5, 1916, on the restriction of German trade, boasts that by British measures Germany's export trade has been stopped almost entirely, whilst her imports are subject to England's will.

The Imperial Government feels confident that the people of the United States, remembering the friendly realtions that for the last hundred years have existed between the two nations, will, in spite of the difficulties put into the way by our enemies, appreciate the German viewpoint as laid down above.

The German text of instructions to her submarine captains, issued February 10, was as follows:

FOREIGN OFFICE,
Berlin, February 10, 1916.

NOTE VERBALE.

The foreign office has the honor to transmit herewith to the embassy of the United States of America three copies of a memorandum of the Imperial German Government on the treatment of armed merchantmen, with inclosures, and to request that the embassy be good enough to bring the essential contents of the memorandum to the members of its Government by telegraph, stating at the time that the order to the German naval forces mentioned in Section IV, No. 1, of the memorandum will not be carried into effect until the 29th instant, in the interest of neutrals already on board armed merchant vessels.

Memorandum of the Imperial German Government upon the treatment of armed merchantmen:

I. Even before the outbreak of the present war the British Government had given English shipping companies the opportunity to arm their merchant vessels with guns. On March 26, 1913, Winston Churchill, then First Lord of the Admiralty, made the declaration in the British Parliament (Exhibit 1) that the Admiralty had called upon the shipowners to arm a number of first-class liners for protection against danger menaced in certain cases by fast auxiliary cruisers of others powers; the liners were not, however, to assume the character of auxiliary cruisers themselves. The Government desired to place at the disposal of the shipowners the necessary guns, sufficient ammunition, and suitable personnel for the training of the gun crews.

II. The English shipowners have readily responded to the call of the Admiralty. Thus Sir Owen Phillipps, president of the Royal Mail Steam Packet Co., was able to inform the stockholders of his company in May, 1913, that the larger steamers of the company were equipped with guns; furthermore, the British Admiralty published in January, 1914, a list, according to which 29 steamers of various English lines carried guns aft. For example, the crew are not to wear uniforms in neutral ports and thus plainly belong to the British Navy. Above all, it is shown by the instructions that these armed vessels are not to await any action of maritime war on the part of the German submarines, but are to attack them forthwith. In this respect the following regulations are particularly instructive:

(a) The instructions for guidance in the use, care, and maintenance of armament in defensively armed merchant ships, Exhibits 5 and 6, provide in the section headed "Action," in paragraph 4: "It is not advisable to open fire at a range greater than 800 yards unless the enemy has already opened fire. From this it is the duty of the

merchantman in principle to open fire without regard to the attitude of the submarine.

(b) The instructions regarding submarines applicable to vessels carrying a defensive armament, Exhibits 9 and 10, prescribed under No. 3: "If a submarine is obviously pursuing a ship by day and it is evident to the master that she has hostile intentions, the ship pursued should open fire in self-defense, notwithstanding the submarine may not have committed a definite hostile act, such as firing a gun or torpedo." From this also the mere appearance of a submarine in the wake of a merchantman affords sufficient occasion for an armed attack.

In all these orders, which do not apply merely to the zone of maritime war around England, but are unrestricted as regards their validity, see Exhibit 12 for the Mediterranean, the greatest emphasis is laid on secrecy, plainly in order that the action of merchantmen, in absolute contradiction of international law and the British assurances, Exhibit 2, might remain concealed from the enemy as well as the neutrals.

III. It is thus made plain that the armed English merchantmen have official instructions to attack the German submarines treacherously wherever they come near them; that is to say, orders to conduct relentless warfare against them. Since England's rules of maritime war are adopted by her allies without question, the proof must be taken as demonstrated in request of the armed merchantmen of the other enemy countries also.

IV. In the circumstances set forth above enemy merchantmen armed with guns no longer have any right to be considered as peaceable vessels of commerce. Therefore the German naval forces will receive orders within a short period, paying consideration to the interests of the neutrals, to treat such vessels as belligerents.

The German Government brings this status of affairs to the knowledge of the neutral powers in order that they may warn their nationals against continuing to intrust their persons or property to armed merchantmen of the powers at war with the German Empire.

APPENDICES TO THE NOTE.

The so-called appendices to the note verbale, above quoted, embrace 12 exhibits, the most interesting of which are what purport to be the secret and confidential orders issued by the British Admiralty to British merchantmen. Germany's note points out that on March 26, 1913, Winston Churchill, then First Lord of the British Admiralty, called on British shipowners to arm a number of first-class liners for defense. Churchill's statement is the first exhibit submitted by the German Government, as follows:

EXHIBIT 1.

Declaration of the First Lord of the Admiralty, Winston Churchill, at the session of the British lower house of March 26, 1913. Parliamentary debates, official report, third session of the Thirtieth Parliament, House of Commons, 1913 (Bd., 1 S., 1775 Bis., 1776):

"I turn to one aspect of trade protection which requires special reference. It was made clear at the second Hague conference and the

London conference that certain of the great powers have reserved to themselves the right to convert merchant steamers into cruisers, not merely in national harbors but, if necessary, on the high seas. There is now good reason to believe that a considerable number of foreign merchant steamers may be rapidly converted into armed ships by the mounting of guns. The sea-borne trade of the world follows well-marked routes, upon nearly all of which the tonnage of the British mercantile marine largely predominates. Our food-carrying liners and vessels carrying raw material, following these trade routes, would, in certain contingencies, meet foreign vessels armed and equipped in the manner desirable. If the British ships had no armament, they would be at the mercy of any foreign liner carrying one effective gun and a few rounds of ammunition. It would be obviously absurd to meet the contingency of considerable numbers of foreign armed merchant cruisers on the high seas by building an equal number of cruisers. That would expose this country to an expenditure of money to meet a particular danger altogether disproportionate to the expense caused to any foreign power in creating that danger. Hostile cruisers, wherever they are found, will be covered and met by British ships of war, but the proper reply to an armed merchantman is another merchantman armed in her own defense.

"This is the position to which the Admiralty have felt it necessary to draw the attention of leading shipowners. We have felt justified in pointing out to them the danger to life and property which would be incurred if their vessels were totally incapable of offering any defense to an attack. The shipowners have responded to the Admiralty invitation with cordiality, and substantial progress has been made in the direction of meeting it by preparing a defensive measure to equip a number of first-class British liners to repel the attack of armed foreign merchant cruisers.

"Although these vessels have, of course, a wholly different status from that of the regularly commissioned merchant cruisers, such as those we obtain under the Cunard agreement, the Admiralty have felt that the greater part of the cost of necessary equipment should not fall upon the owners, and we have decided, therefore, to lend the necessary guns, to supply ammunition, and to provide for the training of members of the ship's company to form the gun crews. The owners on their part are paying the cost of the necessary structural conversion, which is not great. The British mercantile marine, will, of course, have the protection of the Royal Navy under all possible circumstances, but it is obviously impossible to guarantee individual vessels from attack when they are scattered on their voyages all over the world. No one can pretend to view these measures without regret or without hoping that the period of retrogression all over the world, which has rendered them necessary, may be succeeded by days of broader international confidence and agreement than those through which we are now passing."

Exhibit No. 2 is the text of the note delivered August 25, 1914, by Sir Cecil Spring-Rice, British ambassador at Washington, to the State Department, in which he gave fullest assurances that British merchant vessels "will never be used for purposes of attack; that they are merely peaceful traders armed only for defense; that they will never fire unless first fired upon; and that they will never under any circumstances attack any vessel."

Exhibit No. 3 is the text of a memorandum delivered by the German Government to Ambassador Gerard on October 15, 1914, concerning the treatment of armed merchant vessels in neutral ports.

SHIPS ATTACKED.

Exhibit No. 4 of the German appendices is a list of cases in which armed enemy merchant ships are alleged to have fired on German or Austrian submarines. It follows:

"Digest of cases in which enemy merchant ships have fired on German or Austro-Hungarian submarines.

"April 11, 1915: Unknown steamer, south North Sea, near the Nordhinder Lightship; steamer without a flag. Steamer saw periscope, opened gunfire at about 3,000 meters and turned on U (boat). Report of shells could be heard near the boat—about 15 or 20 shots.

"April 28, 1915: Unknown steamer of medium size, North Sea, about 60 nautical miles northeast of the mouth of the Tyne. Steamer was sighted running onward; suddenly opened fire at about 3,000 meters without hoisting flag. On account of her head-on position it could not be seen whether she bore neutral marks. From the impact of the shots the guns were from 5 to 7 centimeters. U escaped the well-directed fire by speedily submerging.

"May 29, 1915: English steamer *Demerara*, west entrance to the English Channel, near Quessant (Ushant Island). U chased the steamer and tried when 4,500 meters off to bring her to a halt by firing warning guns. Steamer turned off and returned the fire.

"June 3, 1915: Unknown steamer, west entrance to the English Channel, 50 nautical miles south of the Scilly Isles. U tried to bring the steamer to a halt by firing warning shots with her artillery. The steamer returned the fire with a poop gun.

"June 14, 1915: Two unknown steamers, west of the Hebrides (about 30 nautical miles off Lewis). The two steamers were running close together, at about 4,000 meters; both opened fire on U with small-caliber poop guns. Shots hit sideways very bad. Speedy submerging, running deep; so submarine attack hopeless.

"August 14, 1915: Large English steamer of the Royal Mail Line, Irish Sea. U was fired on suddenly by the steamer without provocation, from a distance of 8,000 meters. Shots fell short. No attack was attempted on the steamer.

"August 18, 1915: Unknown steamer, Bristol Channel. Tried to bring steamer to halt by gunfire; after warning. When steamer saw that U boat was waiting, she suddenly opened fire with a gun from the promenade deck.

"September 10, 1915: Unknown steamer, western Mediterranean. Steamer was challenged to show her flag. She turned away without hoisting the flag and opened fire with a 10-centimeter poop gun on the U boat, which escaped the firing by speedily submerging.

"October 7, 1915: French steamship *Amiral Hametin*, middle Mediterranean. U signaled the steamer to stop. She turned away and ran on a zigzag course. The U boat tried to bring the steamer to a halt by artillery fire. When about 3,000 meters distant, she returned the fire. It was some time before the steamer stopped. She was sunk later.

"November 3: English transport steamer *Woodfield*, western Mediterranean. The steamer did not stop at the warning gun. At a distance of 6,000 meters she returned the fire with a small gun. She was forced to stop by artillery fire, and her crew list showed that the steamer carried gunners and enlisted men of the navy as members of her crew.

"November 5: Unknown steamer, western Mediterranean. A large steamer was chased by U boat after being challenged in vain. The steamer returned the fire with a large gun. The chase had to be given up.

"November 6: Eastern Mediterranean, English tank steamer *Lumina*. The steamer was challenged to stop by a warning gun. She turned about, ran away, and returned the fire with a poop gun. She was compelled to stop by artillery fire and later was sunk.

"November 11: English steamship *City of Marseilles*, western Mediterranean. U boat after warning tried to stop a large freight steamer by artillery fire. The steamer turned away and returned the fire with two guns of about 10 centimeters. The U boat had to give up the chase; the steamer got away. A press telegram of January 1, 1916, from Bombay told the incident in detail. The steamer claimed she had sunk the U boat.

"November 30: Unknown steamer, middle Mediterranean. U boat after a warning gun tried to stop a large steamer by artillery fire. The steamer turned away and returned the fire with a small gun.

"December 8: Unknown steamer, eastern Mediterranean. The steamer was approached under water. She fired with a poop gun on the periscope as soon as it emerged.

"December 13: Unknown English steamer, middle Mediterranean. U boat tried to stop by artillery fire a larger steamer, with poop guns, that showed no flag. The steamer hoisted the English flag and returned the fire with two guns.

"December 14: Unknown steamer, middle Mediterranean. U boat approached the steamer, which stopped at sight of the boat, and ordered her to show her flag. The steamer speeded away, keeping up a brisk fire from a poop gun.

"January 17, 1916: Unknown steamer, middle Mediterranean. U boat ordered steamer, apparently in ballast, that was sighted on a westerly course, to stop. The steamer turned about, ran away, and fired with a poop gun.

"January 17: English steamer *Melantic*, middle Mediterranean. U boat signaled a flush-decked freight steamer, with raised forecastle and cabin, of about 3,000 tons, sailing under the Dutch flag, to send a boat and have the ship's papers examined. This was done after a while. As U boat, which for safety's sake had gone under, came to the surface about 1,000 meters away from the steamer, near the ship's boat, the steamer opened fire with two guns of medium caliber and machine guns so briskly that the U boat barely saved herself by speedily submerging. Throughout the action the steamer displayed the Dutch flag. She bore the name of *Melantic*, which is found not in the Dutch but the English marine list."

BRITISH ORDERS TO MERCHANTMEN.

Exhibit No. 5 is what purports to be the text of confidential instructions to British defensively armed merchantmen regarding the use of their armament. These instructions are declared to have been found on the British steamer *Woodfield* and are given as follows:

"CONFIDENTIAL.

"Instructions for guidance in the use, care, and maintenance of armament in defensively armed merchant ships.

"GENERAL.

"1. Ratings embarked as gun's crew will sign the ship's articles at the rate of pay communicated.

"2. They are to obey the orders of the master and officers of the ship. If they think it necessary to make a complaint against any order, they are to obey the order and make their complaint in writing, asking that it may be forwarded to the proper authorities.

"3. The ratings are not required for duties unconnected with the armament, except in case of emergency, but they are to assist at all times in the welfare of the ship and look after the cleanliness of their berths.

"4. They are to keep watch and watch at sea and also when the ship is anchored in any place liable to attack by submarines.

"5. They will receive their pay through the master of the ship. They will not mess with the crew, but in one of the officers' messes, as the master may decide.

"6. Uniform is not to be worn in neutral ports.

"7. A brief report is to be rendered by the senior rating on the first of each month, countersigned by the master, and sent to the Director of Trade Division, Admiralty, Whitehall, S. W.

"DRILL AND MAINTENANCE OF GUN.

"8. The ratings embarked are entirely responsible for the efficiency in all respects of the gun and ammunition, which should be ready day and night.

"9. The senior rating is to arrange with the master to detail the necessary additional men to complete the gun's crew up to the numbers required by the drill book.

"10. One of the ratings is to act as gun layer and the other as breech worker. The remaining numbers should be told off to act as sight setter, projectile loader, and cartridge loader, etc.

"11. Arrangements are to be made with the master to detail a sufficient number of hands, over and above the gun's crew, to supply ammunition to the gun on going into action.

"12. A ready supply of 10 complete rounds, with percussion tubes in the cartridges, is to be kept at the gun day and night. Care should be taken that a supply of one percussion tube to each cartridge is kept aside for action, and this supply of tubes is never to be encroached on for practice firing.

"13. The senior rating should arrange with the master for the instruction of the ratings told off as gun's crew and ammunition supply party.

"14. A drill book is supplied for information, but it is not necessary that the gun's crew should be burdened with details, provided that they understand what is required when the gun is to be fought.

"15. Percussion firing should always be used, as it is the most certain means of discharging the gun; and, therefore—

"(*a*) Cartridges in ready supply only should be kept ready tubed with percussion tubes. Tubes not required for ready supply of cartridges should be retained in their sealed boxes to preserve them from damp.

"(*b*) Aiming practice with a percussion lanyard should be carried out daily. It is not necessary to fire a tube in this practice, but the breech worker should be exercised at the same time in cocking the striker while the breech is open and in hooking on the firing lanyard and passing it to the gun layer.

"NOTE.

"The present allowance of percussion tubes is one per cartridge. Electric firing mechanism and batteries are therefore to be kept efficient in every respect, in case the supply of percussion tubes becomes insufficient from damp or other causes.

"16. Great attention is to be paid to the ready supply of ammunition, to keep it clean and dry. If tubes and cartridges are not kept dry there is considerable danger of hanging fire. The projectiles are to be lightly oiled. In case the cartridges are suspected to have become wet, they should be laid aside until return to harbor.

"17. For the maintenance of the gun and mounting, it is to be borne in mind that 'lubrication is the secret of efficiency in gun machinery.' All oil channels should be seen clear of vaseline and filled with oil. It is to be remembered that vaseline is a preservative only; oil is a lubricant.

"Each morning and evening the bore is to be seen clear, recoil cylinders filled, striker protrusion gauged, and the gun trained and elevated to both extremes.

"The gun is to be cleaned twice a day, gear being supplied by the master.

"Brick dust is not to be used on machined surfaces.

"ACTION.

"The master is responsible for handling the ship and for opening and ceasing fire. He has been furnished with instructions which will enable him to do this to the best advantage. The duty of the gun's crew is to fire the gun under the general direction of the master, who will communicate to them so much of the instructions as he may consider necessary to enable them to fire the gun to the best advantage.

"In action the following instructions should be carried out:

"1. When in submarine waters everything should be in a state of readiness, but the gun should not be kept actually loaded.

"2. When the enemy is engaged:

"(*a*) The point of aim should be the center of the water line.

"(*b*) It is to be remembered that 'over' shots are useless. A short shot by causing a splash confuses the enemy. It may ricochet into the enemy. If the shell bursts on striking the water—as it usually does—some fragments are likely to hit the enemy. To get the best results at least half of the shots fired should fall short.

"3. The master will probably keep the submarine astern, so that little deflection will be necessary.

"4. It is not advisable to open fire at a range greater than 800 yards, unless the enemy has already opened fire, for the following reasons:

"(*a*) The ammunition supply is limited.

"(*b*) Accurate shooting under probable existing conditions can not be expected at greater range.

"5. When in action and a misfire occurs with a percussion tube the following procedure is to be adopted:

"(*a*) The B. M. lever is to be tapped to insure it is closed.

"(*b*) The striker is to be recocked.

"If the gun does not then fire the striker is to be taken out to insure that the point is not broken. If unbroken, the breach is to be opened and the cartridge is to be thrown overboard, it having been ascertained that the percussion tube has been inserted.

"The gun is then to be reloaded.

"INSTRUCTIONS FOR CARRYING OUT FIRING PRACTICE.

"1. In order to insure that the gun is maintained in an efficient condition one round is to be fired every two months.

"2. In order to prevent false alarms it is essential that the firing referred to in paragraph 1 shall take place in clear weather and out of sight of land and of other ships.

"3. If convenient, a cask or other suitable object should be dropped as a target, and the gun should be fired when the range is about 600 yards.

"4. The gun's crew and ammunition-supply party should be exercised on the day previous to the practice, and also immediately before firing.

"5. Before practice firing the following procedure is to be carried out:

"(*a*) Recoil cylinders and tanks are to be seen filled.

"(*b*) Bore is to be seen clear.

"(*c*) Movable objects in the way of blast from the gun are to be removed.

"(*d*) The striker is to be reexamined to see (1) that sheet net is screwed up and keep pin in place and intact; (2) that needle set and check nuts are screwed up; (3) that striker does not protrude with B. M. lever in open position; (4) that striker does not move forward till marks on breechblock and gun are in line; (5) that safety stop is correct and keep screw is in place.

"ADMIRALTY.

"MAY 7, 1915."

INSTRUCTIONS TO SHIPMASTERS.

Exhibit No. 6 gives the text of a separate set of confidential British instructions for guidance in the use of armament on defensively armed merchantmen, said to have been found on the steamer *Woodfield*, and is similar to the secret instructions given in Exhibit No. 5, except that the instructions described as Exhibit No. 6 appears to be a reprint of the instructions described as Exhibit No. 5, with several slight technical rules concerning the guns.

Exhibit No. 7 embraces brief supplementary instructions of a confidential nature, also said to have been found on the steamer *Woodfield*, as follows:

"Confidential addenda to instructions for guidance in the use, care, and maintenance of armament in defensively armed merchant ships:

"1. The master should arrange, wherever possible, that the space in the immediate vicinity of the gun is railed off, and passengers and other unauthorized persons should not be allowed near the gun.

"2. A notice to this effect should be posted up near the gun.

"3. When the ship is in habor one of the two ratings is always to be on board to keep guard on the gun and ammunition, and the master is to use his discretion as to keeping both ratings on board, should he consider such a course to be desirable.

"4. The gun is to be kept covered at all times when not in use.

"5. Whenever the ships anchor in the vicinity of a man-of-war a request should be made to the commanding officer of the man-of-war for an armorer to inspect the gun and mounting.

"ADMIRALTY.

"MAY 27, 1915."

LEAF FROM DRILL BOOK.

Exhibit No. 8 is a facsimile of the title-page of the "Drill book for 12-pounder quick-fire guns, issued to defensively armed merchant ships, issued by the gunnery branch of the British Admiralty in May, 1915." This book is alleged to have been found on the steamer *Woodfield*.

Exhibit No. 9 is a copy of secret instructions No. 45 regarding submarines, applicable to vessels carrying a defensive armament, issued by the British Admiralty on February 25, 1915, and also found on the steamer *Woodfield*. It follows:

"CONFIDENTIAL—NO. 45.

"In no circumstances is this paper to be allowed to fall into the hands of the enemy.

"This paper is for the master's personal information. It is not to be copied, and when not actually in use is to be kept in safety in a place where it can be destroyed at a moment's notice.

"Such portions as call for immediate action may be communicated verbally to the officers concerned.

"FEBRUARY 25, 1915.

"Instructions regarding submarines applicable to vessels carrying a defensive armament:

"1. Defensively armed vessels should follow generally the instructions for ordinary merchant ships.

"2. In submarine waters guns should be kept in instant readiness.

"3. If a submarine is obviously pursuing a ship by day and it is evident to the master that she has hostile intentions, the ship pursued should open fire in self-defense, notwithstanding the submarine may not have committed a definite hostile act, such as firing a gun or torpedo.

"4. In view of the great difficulty in distinguishing a friend from an enemy at night fire should not be opened after dark unless it is absolutely certain that the vessel fired at is hostile.

"5. Before opening fire the British colors should be hoisted.

"It is essential that fire should not be opened under neutral colors."

FURTHER RULES FOR ATTACKS.

Exhibit 10 is a copy of British secret instructions No. 291 and is similar to and repeats instructions No. 45, printed above, with the addition of the following instructions:

"CONFIDENTIAL—NO. 291.

"In no circumstances is this paper to be allowed to fall into the hands of the enemy.

"This paper is for the master's personal information. It is not to be copied, and when not actually in use is to be kept in safety in a place where it can be destroyed at a moment's notice. Such portions as call for immediate action may be communicated verbally to the officers concerned.

"APRIL, 1915.

"Instructions regarding submarines applicable to vessels carrying a defensive armament.

"6. If a defensively armed vessel is pursued by a submarine, the master has two alternatives:

"*a.* To open fire at long range immediately it is certain that the submarine is really in pursuit.

"*b.* To retain fire until the submarine has closed to a range, say, 800 yards, at which fire is likely to be effective.

"In view of the very great difficulty of distinguishing between friendly and hostile submarines at long range (one British submarine has already been fired at by a merchant vessel which erroneously supposed herself to be pursued by the submarine) it is strongly recommended that course should be adopted by all defensively armed ships.

"7. A submarine's flag is no guide to her nationality, as German submarines frequently fly British colors.

"8. Vessels carrying a defensive armament and proceeding to neutral ports must not be painted in neutral colors or wear a neutral flag.

"9. It is recommended that in neutral ports, particularly those of Spain, the armament should be concealed as far as possible. A canvas cover is recommended for this purpose."

ORDERS TO TROOP TRANSPORTS.

Exhibit No. 11 purports to be the text of secret instructions to masters of transports carrying troops, issued by the British Admiralty, May 31, 1915, and found on the steamer *Woodfield*. The document follows:

"SECRET.

"Memorandum for issue to masters of transports carrying troops.

"Use of rifle and machine-gun fire by troops on board transports against enemy submarines or torpedo crafts,

"1. In daylight a submarine will probably attack while submerged, with only her periscope showing.

"At night, in moonlight, a submarine may attack while on the surface, or with only her conning tower above water, owing to the difficulty of seeing through the periscope at night.

"2. In either case heavy rifle or machine-gun fire will make it more difficult for a submarine to make a successful shot with a torpedo. If submerged, no injury will be done to her, but a good volume of fire falling just short of the periscope will make splashes which will render it difficult for the observer to see clearly through the periscope.

"3. When a destroyer escort is accompanying a transport, troops should not open fire on a submarine, as it may prevent a destroyer from ramming her, nor should their weapons be loaded, in order to avoid the possibility of an escorting vessel being fired on by mistake, especially at night.

"4. When no escort is provided machine guns should be in readiness to open fire, and a strong party of riflemen should also be on duty.

"5. Military officers should be in command both of the machine guns and riflemen to control the fire.

"6. A military officer of the watch should be in command of the troops on deck. He should not order fire to be opened on a hostile submarine or torpedo vessel without the previous assent of the master or his representative—the ship's officer of the watch.

"7. The object of those controlling the fire should be to keep the center of the pattern just short of the hostile vessel.

"8. Machine-gun tripods can be lashed to the rails or other deck fittings. If there is motion on the ship and machine guns are fitted with elevating or training gear, it is advisable to disconnect it and point the gun by hand.

"9. Field guns with recoil mountings might possibly be secured on deck in such a manner as to permit of their being fired, but their arc of training would be very restricted, and it is unlikely that gun layers, without previous training afloat, could make satisfactory practice from a ship with motion on. Their use is not, therefore, recommended.

"10. In men-of-war it has been the practice for many years to station sentries with ball cartridge on deck opposite the boats in the

event of collision or other serious emergency likely to the boats being required. Their duties are to prevent anyone getting into the boats or attempting to lower the boats without orders from the captain or his representatives. This practice should be followed in transports.

"ADMIRALTY.

"31st MAY, 1915."

The last of the appendices, Exhibit No. 12, purports to be instructions to British merchant vessels in the Mediterranean, alleged to have been found on the English steamer *Linkmoor*. It follows:

"ADMIRALTY SUPERINTENDENT'S OFFICE,
"*Malta, June, 1915.*

"Instructions to British merchant vessels passing through the Mediterranean Sea.

"It is now certain that there are enemies' submarines at sea in the Mediterranean.

"In order to avoid attack you are to keep out of the track of shipping.

"You are to darken ship at night and are not to show navigation lights except at discretion to avoid collision, and all lights are to be extinguished when necessity is passed.

"You are to carry out the procedure recommended by the Admiralty in their printed instructions if a hostile submarine is sighted."

The armed merchantmen an issue in Congress:

THE LETTER FROM SENATOR STONE TO WHICH THE PRESIDENT'S IS A REPLY.

UNITED STATES SENATE,
Washington, February 24.

DEAR MR. PRESIDENT: Since Senator Kern, Mr. Flood, and I talked with you on Monday evening I am more troubled than I have been for many a day. I have not felt authorized to repeat our conversation, but I have attempted, in response to numerous inquiries from my colleagues, to state to them, within the confidence that they should observe, my general understanding of your attitude. I have stated my understanding of your attitude to be substantially as follows:

That while you would deeply regret the rejection by Great Britain of Mr. Lansing's proposal for the disarmament of merchant vessels of the allies, with the understanding that Germany and her allies would not fire upon a merchant ship if she hauled to when summoned, not attempting to escape, and that the German warships would only exercise the admitted right of visitation and capture, and would not destroy the captured ship except in circumstances that reasonably assured the safety of passengers and crew, you were of the opinion that if Great Britain and her allies rejected the proposal and insisted upon arming her merchant ships she would be within her right under international law.

Also that you would feel disposed to allow armed vessels to be cleared from our ports. Also that you are not favorably disposed to the idea of this Government taking any definite steps toward preventing American citizens from embarking upon armed merchant vessels. Furthermore, that you would consider it your duty if a German war-

ship should fire upon an armed merchant vessel of the enemy upon which American citizens were passengers to hold Germany to strict account.

Numerous Members of the Senate and the House have called to discuss this subject with me. I have felt that the Members of the two Houses who are to deal with this grave question were entitled to know the situation we are confronting as I understand it to be.

I think I should say to you that the Members of both Houses feel deeply concerned and disturbed by what they read and hear. I have heard of some talk to the effect that some are saying that after all it may be possible that the program of preparedness, so called, has some relation to just such a situation as we are called upon to meet.

I have counseled all who have talked with me to keep cool; that this whole business is still the subject of diplomacy, and that you are striving to the utmost to bring about some peaceable adjustment, and that in the meantime Congress should be careful not to "ball up" a diplomatic situation by any kind of hasty and ill-considered action. However, the situation in Congress is such as to excite a sense of deep concern in the minds of careful and thoughtful men.

I have felt that it is due to you to say this much. I think you understand my personal attitude with respect to this subject. As much and deeply as I would hate to radically disagree with you, I find it difficult from my sense of duty and responsibility to consent to plunge this Nation into the vortex of this world war because of the unreasonable obstinacy of any of the powers upon the one hand, or, on the other hand, of foolhardiness, amounting to a sort of moral treason against the Republic, of our people recklessly risking their lives on armed belligerent ships. I can not escape the conviction that such would be so monstrous as to be indefensible.

I want to be with you and to stand by you, and I mean to do so up to the last limit; and I want to talk with you and Secretary Lansing with the utmost frankness—to confer with you and to have your judgment and counsel—and I want to be kept advised as to the course of events, as it seems to me I am entitled to be.

In the meantime I am striving to prevent anything being done by any Senator or Member calculated to embarrass your diplomatic negotiations. Up to the last you should be left free to act diplomatically as you think for the best to settle the questions involved. I need hardly say that my wish is to help, not to hinder, you.

With the highest regard and most sympathetic consideration, I have the honor, Mr. President, to be,

W. J. STONE.

On the same day the President addressed the Senator as follows:

THE PRESIDENT'S LETTER TO SENATOR STONE MADE PUBLIC FEBRUARY 24.

THE WHITE HOUSE,
Washington, February 24, 1916.

MY DEAR SENATOR: I very warmly appreciate your kind and frank letter of to-day and feel that it calls for an equally frank reply.

You are right in assuming that I shall do everything in my power to keep the United States out of war. I think the country will feel no uneasiness about my course in that respect. Through many anx-

ious months I have striven for that object, amidst difficulties more manifold than can have been apparent upon the surface, and so far I have succeeded. I do not doubt that I shall continue to succeed. The course which the central European powers have announced their intention of following in the future with regard to undersea warfare seems for the moment to threaten insuperable obstacles, but its apparent meaning is so manifestly inconsistent with explicit assurances recently given us by those powers with regard to their treatment of merchant vessels on the high seas that I must believe that explanations will presently ensue which will put a different aspect upon it. We have had no reason to question their good faith or their fidelity to their promises in the past, and I, for one, feel confident that we shall have none in the future.

But in any event our duty is clear. No nation, no group of nations, has the right while war is in progress, to alter or disregard the principles which all nations have agreed upon in mitigation of the horrors and sufferings of war; and if the clear rights of American citizens should ever unhappily be abridged or denied by any such action we should, it seems to me, have in honor no choice as to what our own course should be.

For my own part I can not consent to any abridgment of the rights of American citizens in any respect. The honor and self-respect of the Nation are involved. We covet peace, and shall preserve it at any cost but the loss of honor. To forbid our people to exercise their rights for fear we might be called upon to vindicate them would be a deep humiliation indeed. It would be an implicit, all but an explicit, acquiescence in the violation of the rights of mankind everywhere and of whatever nation or allegiance. It would be a deliberate abdication of our hitherto proud position as spokesmen, even amidst the turmoil of war, for the law and the right. It would make everything this Government has attempted and everything that it has achieved during this terrible struggle of nations meaningless and futile.

It is important to reflect that if in this instance we allowed expediency to take the place of principle the door would inevitably be opened to still further concessions. Once accept a single abatement of right, and many other humiliations would certainly follow, and the whole fine fabric of international law might crumble under our hands, piece by piece. What we are contending for in this matter is of the very essence of the things that have made America a sovereign Nation. She can not yield them without conceding her own impotency as a Nation and making virtual surrender of her independent position among the nations of the world.

I am speaking, my dear Senator, in deep solemnity, without heat, with a clear consciousness of the high responsibilities of my office and as your sincere and devoted friend. If we should unhappily differ, we should differ as friends; but where issues so momentous as these are involved we must, just because we are friends, speak our minds without reservation.

Faithfully, yours,

WOODROW WILSON.

On the 29th the President wrote Acting Chairman Pou, of the Rules Committee:

THE WHITE HOUSE,
Washington, February 29, 1916.

MY DEAR MR. POU: Inasmuch as I learn that Mr. Henry, the chairman of the Committee on Rules, is absent in Texas, I take the liberty of calling your attention, as ranking member of the committee, to a matter of grave concern to the country which can, I believe, be handled, under the rules of the House, only by that committee.

The report that there are divided counsels in Congress in regard to the foreign policy of the Government is being made industrious use of in foreign capitals. I believe that report to be false, but so long as it is anywhere credited it can not fail to do the greatest harm and expose the country to the most serious risks. I therefore feel justified in asking that your committee will permit me to urge an early vote upon the resolutions with regard to travel on armed merchantmen, which have recently been so much talked about, in order that there may be afforded an immediate opportunity for full public discussion and action upon them and that all doubts and conjectures may be swept away and our foreign relations once more cleared of damaging misunderstandings.

The matter is of so grave importance and lies so clearly within the field of Executive initiative that I venture to hope that your committee will not think that I am taking unwarranted liberty in making this suggestion as to the business of the House, and I very earnestly commend it to their immediate attention.

Cordially and sincerely, yours,

WOODROW WILSON.

The McLemore warning resolution was tabled, which was equivalent in parliamentary effect to a refusal to warn American citizens from defensively armed belligerent vessels.

The British Admiralty issued the following instructions to her merchantmen:

FULL TEXT OF BRITISH INSTRUCTIONS TO ARMED LINERS—APPROACH OF SUBMARINE TO BE DEEMED HOSTILE ACT.

LONDON, *March 2.*

The British Admiralty to-night officially made public the Admiralty orders to armed merchantmen given October 2, 1915.

The orders say that the armament of such vessels must be used solely for resisting an attack by an armed vessel and for no other purpose. As British submarines and aircraft are ordered not to approach merchantmen, the orders say the approach to a British merchantman of a submarine is to be regarded as done with a hostile intention.

The official statement reads as follows:

"In view of the recent issue by the German Government of a memorandum on the treatment of armed merchant ships, the Admiralty has decided to make public the instructions actually governing the actions of British merchant vessels armed for self-defense:

"Instructions, dated 20th of October, 1915, in re the status of armed merchant ships:

"(1) The right of the crew of a merchant vessel to forcibly resist visit and search and fight in self-defense is well recognized in international law and expressly admitted by the German prize regulations in an addendum issued June, 1914, at a time when it was known that numerous merchant vessels were being armed for self-defense.

"(2) Armament is supplied solely for the purpose of resisting attack by an armed enemy vessel and must not be used for any other purpose whatsoever.

"(3) An armed merchant vessel, therefore, must not in any circumstances interfere with or obstruct the free passage of other merchant vessels or fishing craft, whether these are friendly, neutral, or hostile.

"(4) The status of a British armed merchant vessel can not be changed upon the high seas.

"Rules to be observed in the exercise of the right of self-defense:

"(1) The master or officer in command is responsible for opening and ceasing fire.

"(2) Participation in armed resistance must be confined to persons acting under the orders of the master or the officer in command.

"(3) Before opening fire the British colors must be hoisted.

"(4) Fire must not be opened or continued from a vessel which has stopped, hauled down her flag, or otherwise indicated her intention to surrender.

"(5) The expression 'armament' includes not only cannon but also rifles and machine guns in cases, where these have been supplied.

"(6) The ammunition used in rifles and machine guns must conform to article 23, Hague Convention, 1907; that is, bullets must be cased in nickel or other hard substance and must not be split or cut in such a way as to cause them to expand or set up on striking a man. The use of explosive bullets is forbidden.

"Circumstances under which armament should be employed:

"(1) The armament is supplied for the purpose of defense only. The object of the master should be to avoid action whenever possible.

"(2) Experience has shown that hostile submarines and aircraft have frequently attacked merchant vessels without warning. It is important, therefore, that craft of this description should not be allowed to approach to short range, at which a torpedo or bomb launched without notice would almost certainly be effective. British and allied submarines and aircraft have orders not to approach merchant vessels; consequently it may be presumed that any submarine or aircraft which deliberately approaches or pursues a merchant vessel does so with hostile intention. In such cases fire may be opened in self-defense in order to prevent the hostile craft from closing to a range at which resistance to a sudden attack with bomb or torpedo would be impossible.

"(3) An armed merchant vessel proceeding to render assistance to the crew of a vessel in distress must not seek action with any hostile craft, though if she herself is attacked while doing so fire may be opened in self-defense.

"(4) It should be remembered that the flag is no guide to nationality. German submarines and armed merchant vessels have frequently employed the British, allied, or neutral colors to approach

undetected. Though, however, the use of disguise and false colors to escape capture is a legitimate ruse de guerre, its adoption by defensively armed merchant ships may easily lead to misconception. Such vessels, therefore, are forbidden to adopt any form of disguise which might cause them to be mistaken for neutral ships."

Admiralty comment:

"These instructions, which are those at present in force, are the latest issued. Successive issues have been made, not by reason of a change in policy—the policy throughout has remained unaltered—but by improvement in wording and greater clearness of expression, to emphasize the purely defensive character of the armament of merchant vessels.

"It is because of the distorted interpretation given these instructions as a whole and the very forced character of the interpretation given by the German Government to portions which they quote from an earlier issue of the instructions that the Admiralty felt it desirable, with a view to allaying neutral anxiety, to publish these in extenso."

On the 24th of March the steamer *Sussex* was attacked without warning. On the following day our Government sent a note to Germany, which was not made public until the 27th of April. The note defines armed-liner law:

NOTIFIES BELLIGERENTS THAT UNITED STATES RECOGNIZES RIGHT OF DEFENSE BY MERCHANTMEN—LIMITS ACTS OF WAR CRAFT—MUST NOT ATTACK WITHOUT WARNING UNTIL STATUS OF VESSEL IS FULLY DETERMINED—AND MUST DISPLAY COLORS—MERCHANTMEN WITH MANDATORY ORDERS TO ATTACK WAR CRAFT NOT IMMUNE THEMSELVES.

TEXT OF MEMORANDUM.

The memorandum which sets forth the attitude of the administration in clear detail, follows:

MEMORANDUM ON ARMED MERCHANT VESSELS.

By direction of the President a memorandum was prepared during March, 1916, in regard to the status of armed merchant vessels in neutral ports and on the high seas. This memorandum is now made public as a statement of this Government's attitude on that subject:

DEPARTMENT OF STATE,
Washington, March 25, 1916.

I.

The status of an armed merchant vessel of a belligerent is to be considered from two points of view: First, from that of a neutral when the vessel enters its ports; and, second, from that of an enemy when the vessel is on the high seas.

First. An armed merchant vessel in neutral ports.

(1) It is necessary for a neutral Government to determine the status of an armed merchant vessel of belligerent nationality which enters its jurisdiction, in order that the Government may protect itself from responsibility for the destruction of life and property by permitting its ports to be used as bases of hostile operations by belligerent warships.

(2) If the vessel carries a commission or orders issued by a belligerent Government and directing it under penalty to conduct aggressive operations, or if it is conclusively shown to have conducted such operations, it should be regarded and treated as a warship.

(3) If sufficient evidence is wanting a neutral Government in order to safeguard itself from liability for failure to preserve its neutrality may reasonably presume from these facts the status of an armed merchant vessel which frequents its waters. There is no settled rule of international law as to the sufficiency of evidence to establish such a presumption. As a result a neutral Government must decide for itself the sufficiency of the evidence which it requires to determine the character of the vessel. For the guidance of its port officers and other officials a neutral Government may therefore declare a standard of evidence, but such standard may be changed on account of the general conditions of naval warfare or modified on account of the circumstances of a particular case. These changes and modifications may be made at any time during the progress of the war, since the determination of the status of an armed merchant vessel in neutral waters may affect the liability of a neutral Government.

Second. An armed merchant vessel on the high seas.

(1) It is necessary for a belligerent warship to determine the status of an armed merchant vessel of an enemy encountered on the high seas, since the rights of life and property of belligerents and neutrals on board the vessel may be impaired if its status is that of an enemy warship.

(2) The determination of warlike character must rest in no case upon presumption but upon conclusive evidence, because the responsibility for the destruction of life and property depends on the actual facts of the case and can not be avoided or lessened by a standard of evidence which a belligerent may announce as creating a presumption of hostile character. On the other hand, to safeguard himself from possible liability for unwarranted destruction of life and property the belligerent should, in the absence of conclusive evidence, act on the presumption that an armed merchantman is of peaceful character.

(3) A presumption based solely on the presence of an armament on a merchant vessel of an enemy is not a sufficient reason for a belligerent to declare it to be a warship and proceed to attack it without regard to the rights of the persons on board. Conclusive evidence of a purpose to use the armament for aggression is essential. Consequently an armament which a neutral Government, seeking to perform its neutral rights, may presume to be intended for aggression might in fact on the high seas be used solely for protection. A neutral Government has no opportunity to determine the purpose of an armament on a merchant vessel unless there is evidence in the ship's papers or other proof as to its previous use, so that the Gov-

ernment is justified in substituting an arbitrary rule of presumption in arriving at the status of the merchant vessel. On the other hand, a belligerent warship can on the high seas test by actual experience the purpose of an armament on an enemy merchant vessel and so determine by direct evidence the status of the vessel.

SUMMARY.

The status of an armed merchant vessel as a warship in neutral waters may be determined, in the absence of documentary proof or conclusive evidence of previous aggressive conduct, by presumption derived from all the circumstances of the case.

The status of such vessel as a warship on the high seas must be determined only upon conclusive evidence of aggressive purpose, in the absence of which it is to be presumed that the vessel has a private and peaceable character, and it should be so treated by an enemy warship.

In brief, a neutral Government may proceed upon the presumption that an armed merchant vessel of belligerent nationality is armed for aggression, while a belligerent should proceed on the presumption that the vessel is armed for protection. Both of these presumptions may be overcome by evidence—the first by secondary or collateral evidence, since the fact to be established is negative in character; the second by primary and direct evidence, since the fact to be established is positive in character.

II.

The character of the evidence upon which the status of an armed merchant vessel of belligerent nationality is to be determined when visiting neutral waters and when traversing the high seas having been stated, it is important to consider the rights and duties of neutrals and belligerents as affected by the status of armed merchant vessels in neutral ports and on the high seas.

First. The relations of belligerents and neutrals as affected by the status of armed merchant vessels in neutral ports.

(1) It appears to be the established rule of international law that warships of a belligerent may enter neutral ports and accept limited hospitality there upon condition that they leave, as a rule, within 24 hours after their arrival.

(2) Belligerent warships are also entitled to take on fuel once in three months in ports of a neutral country.

(3) As a mode of enforcing these rules, a neutral has the right to cause belligerent warships failing to comply with them, together with their officers and crews, to be interned during the remainder of the war.

(4) Merchantmen of belligerent nationality, armed only for purposes of protection against the enemy, are entitled to enter and leave neutral ports without hindrance in the course of legitimate trade.

(5) Armed merchantmen of belligerent nationality under a commission or orders of their Government to use, under penalty, their armament for aggressive purposes, or merchantmen which, without such commission or orders, have used their armaments for aggressive purposes, are not entitled to the same hospitality in neutral ports as peaceable armed merchantmen.

Second. The relations of belligerents and neutrals as affected by the status of armed merchant vessels on the high seas.

(1) Innocent neutral property on the high seas can not legally be confiscated, but is subject to inspection by a belligerent. Resistance to inspection removes this immunity and subjects the property to condemnation by a prize court, which is charged with the preservation of the legal rights of the owners of neutral property.

(2) Neutral property engaged in contraband trade, breach of blockade, or unneutral service obtains the character of enemy property and is subject to seizure by a belligerent and condemnation by a prize court.

(3) When hostile and innocent property is mixed, as in the case of a neutral ship carrying a cargo which is entirely or partially contraband, this fact can only be determined by inspection. Such innocent property may be of uncertain character, as it has been frequently held that it is more or less contaminated by association with hostile property. For example, under the declaration of London—which, so far as the provisions covering this subject are concerned, has been adopted by all the belligerents—the presence of a cargo which in bulk or value consists of 50 per cent contraband articles impresses the ship with enemy character and subjects it to seizure and condemnation by a prize court.

(4) Enemy property, including ships and cargoes, is always subject to seizure and condemnation. Any enemy property taken by a belligerent on the high seas is a total loss to the owners. There is no redress in a prize court. The only means of avoiding loss is by flight or successful resistance. Enemy merchant ships have therefore the right to arm for the purpose of self-protection.

(5) A belligerent warship is any vessel which, under commission or orders of its Government imposing penalties entitling it to prize money, is armed for the purpose of seeking and capturing or destroying enemy property or hostile neutral property on the seas. The size of the vessel, strength of armament, and its defensive or offensive force are immaterial.

(6) A belligerent warship has, incidental to the right of seizure, the right to visit and search all vessels on the high seas for the purpose of determining the hostile or innocent character of the vessels and their cargoes. If the hostile character of the property is known, however, the belligerent warship may seize the property without exercising the right of visit and search, which is solely for the purpose of obtaining knowledge as to the character of the property. The attacking vessel must display its colors before exercising belligerent rights.

(7) When a belligerent warship meets a merchantman on the high seas, which is known to be enemy owned, and attempts to capture the vessel, the latter may exercise its right of self-protection either by flight or by resistance. The right to capture and the right to prevent capture are recognized as equally justifiable.

(8) The exercise of the right of capture is limited, nevertheless, by certain accepted rules of conduct based on the principles of humanity and regard for innocent property, even if there is definite knowledge that some of the property, cargo, as well as the vessel, is of enemy character. As a character of these limitations it has become the established practice for warships to give merchant vessels

an opportunity to surrender or submit to visit and search before attempting to seize them by force. The observance of this rule of naval warfare tends to prevent the loss of life of noncombatants and the destruction of innocent neutral property which would result from sudden attack.

(9) If, however, before a summons to surrender is given a merchantman of belligerent nationality, aware of the approach of an enemy warship, uses its armament to keep the enemy at a distance, or after it has been summoned to surrender it resists or flees, the warship may properly exercise force to compel surrender.

(10) If the merchantman finally surrenders, the belligerent warship may release it or take it into custody. In the case of an enemy merchantman it may be sunk, but only if it is impossible to take it into port, and provided always that the persons on board are put in a place of safety. In the case of neutral merchantman, the right to sink it in any circumstance is doubtful.

(11) A merchantman entitled to exercise the right of self-protection may do so when certain of attacks by an enemy warship, otherwise the exercise of the right would be so restricted as to render it ineffectual. There is a distinct difference, however, between the exercise of the right of self-protection and the act of cruising the seas in an armed vessel for the purpose of attacking enemy naval vessels.

(12) In the event that merchant ships of belligerent nationality are armed and under commission or orders to attack in all circumstances certain classes of enemy naval vessels for the purpose of destroying them, and are entitled to receive prize money for such service from their Government, or are liable to a penalty for failure to obey the orders given, such merchant ships lose their status as peaceable merchant ships and are to a limited extent incorporated in the naval forces of their Government, even though it is not their sole occupation to conduct hostile operations.

(13) A vessel engaged intermittently in commerce and under a commission or orders of its Government imposing a penalty, in pursuing and attacking enemy naval craft, possesses a status tainted with a hostile purpose which it can not throw aside or assume at will. It should, therefore, be considered as an armed public vessel and receive the treatment of a warship by an enemy and by neutrals. Any person taking passage on such a vessel can not expect immunity other than that accorded persons who are on board a warship. A private vessel, engaged in seeking enemy naval craft, without such a commission or orders from its Government, stands in a relation to the enemy similar to that of a civilian who fires upon the organized military forces of a belligerent, and is entitled to no more considerate treatment.

On the 10th of April Germany made reply to our memorandum of the 25th of March, in which responsibility for the destruction of the *Sussex* was not admitted.

BERLIN, *April 12, 1916.*

The following is the text of the German note on the *Sussex*, dated April 10:

"The undersigned has the honor to inform your excellency, Ambassador Gerard, in response to communications of the 29th and 30th ultimo and the 3d instant regarding the steamers *Sussex*, *Manchester*

Engineer, *Englishman*, *Berwindvale;* and *Eagle Point* that the mentioned cases, in accordance with our notes of the 30th and 31st ultimo and the 4th and 5th instant, have been subjected to careful investigation by the admiral staff of the navy, which has led to the following results:

"First. The English steamer *Berwindvale:* A steamer, which was possibly the *Berwindvale*, was encountered on the evening of March 16 in sight of Bull Rock Light, on the Irish coast, by a German submarine. The steamer, as soon as she noticed the submarine, which was running unsubmerged, turned and steamed away. She was ordered to halt by a warning shot. She paid no attention, however, to this warning, but extinguished all lights and attempted to escape. The vessel was then fired upon until halted, and without further orders lowered several boats. After the crew entered the boats and received enough time to row away the ship was sunk.

"The name of this steamer was not established; it can not be stated with assurance, even with the help of the details which were furnished by the American Embassy, that the above-described incident concerns the steamer *Berwindvale*. Since, however, the steamer sunk was a tank steamer like the *Berwindvale*, the identity of the ships may be assumed. In this case, however, the statement made that the *Berwindvale* was torpedoed without warning would conflict with the fact.

"Second. The British steamer *Englishman:* This steamer on March 24 was called upon to halt by a German submarine, through two warning shots, about 20 sea miles west of Islay (Hebrides). The vessel proceeded, however, without heeding the warning, and was therefore forced by the submarine by artillery fire to halt after an extended chase, whereupon she lowered boats without further orders.

"After the German commandant had convinced himself that the crew had taken to the boats and rowed from the ship, he sank the steamer.

"Third. The British steamer *Manchester Engineer:* It is impossible to establish through the investigation up to the present whether the attack on this steamer, which, according to the given description, occurred on March 27 in the latitude of Waterford, is attributable to a German submarine. The statement regarding the time and place of the incident gives no sufficient basis for investigation. It would therefore be desirable to have more exact statements of the place, time, and attendant circumstances of the attack reported by the American Government, in order that the investigation might thereupon be brought to a conclusion.

"Fourth. The British steamer *Eagle Point:* This steamer in the forenoon of March 28 was called upon to halt by a German submarine through signal and shot about 100—not 130—sea miles from the southwest coast of Ireland, but proceeded. She was thereupon fired upon until halted, and without further orders lowered two boats, in which the crew took their places. After the commandant convinced himself that the boats, which had hoisted sails, had gotten clear of the steamer, he sank the steamer.

"At the time of the sinking a north-northwest wind of the strength of two, not 'a storm wind,' and a light swell, not 'a heavy sea,' as stated in the given description, prevailed. The boats therefore had

every prospect of being picked up very quickly, because the place of the sinking lay on a much-used steamer path.

"If the crew of the steamer used only two small boats for saving themselves the responsibility falls upon themselves, since there were still upon the steamer, as the submarine could establish, at least four big collapsible boats.

"Fifth. The French steamer *Sussex:* Ascertainment of the fact whether the channel steamer *Sussex* was damaged by a German submarine was rendered extremely difficult, because no exact details of time, place, and attendant circumstances of the sinking were known, and also because it was impossible to obtain a picture of the ship before April 6. Consequently the investigation had to be extended to all actions undertaken on the day in question—March 24—in the channel in the general region between Folkstone and Dieppe."

In that region, on March 24, a long, black craft without a flag, having a gray funnel, small gray forward works, and two high masts, was encountered about the middle of the English Channel by a German submarine. The German commander reached the definite conclusion that it was a war vessel, and, indeed, a mine layer of the recently built English *Arabic* class. He was led to the conviction by the following facts: First, by the plain, unbroken deck of the ship; second, the form of the stern, sloping downward and backward like a war vessel; third, she was painted like a war vessel; fourth, the high speed developed, about 18 knots; fifth, the circumstance that the vessel did not keep a course northward of the light buoys between Dungeness and Beachy Head, which, according to the frequent and unvarying observations of German submarines, is about the course of commercial vessels, but kept in the middle of the channel, on a course about in the direction of Le Havre.

Consequently he attacked the vessel at 3.55 in the afternoon, middle European time, 1½ sea miles southeast of Bull Rock (Bullock?) Bank, the submarine being submerged. The torpedo struck and caused such a violent explosion in the forward part of the ship that the entire forward part was torn away to the bridge.

The particularly violent explosion warrants the certain conclusion that great amounts of munitions were aboard.

The German commander made a sketch of the vessel attacked by him, two drawings of which are inclosed. The picture of the steamer *Sussex*, two copies of which are also inclosed, is reproduced photographically from the English paper, the Daily Graphic of the 27th ultimo.

A comparison of the sketch and the picture shows that the craft attacked is not identical with the *Sussex*. The difference in the position of the stack and shape of the stern is particularly striking.

No other attack whatever by German submarines at the time in question for the *Sussex* upon the route between Folkestone and Dieppe occurred. The German Government must therefore assume that the injury to the *Sussex* is attributable to another cause than an attack by a German submarine.

For an explanation of the case the fact may perhaps be serviceable that no less than 26 English mines were exploded by shots by German naval forces in the channel on the 1st and 2d of April alone. The entire sea in that vicinity is, in fact, endangered by floating mines

and by torpedoes that have not sunk. Off the English coast it is further endangered in an increasing degree through German mines which have been laid against enemy naval forces.

Should the American Government have at its disposal further material for a conclusion upon the case of the *Sussex*, the German Government would ask that it be communicated, in order to subject this material also to an investigation.

In the event that differences of opinion should develop hereby between the two Governments, the German Government now declares itself ready to have the facts of the case established through mixed commissions of investigation, in accordance with the third title of The Hague agreement, for the peaceful settlement of international conflicts, November 18, 1907.

The undersigned, while requesting that you communicate the above to the Government of the United States, takes occasion to renew to the ambassador the assurance of his distinguished esteem.

JAGOW.

On the 18th day of April our Government addressed Germany the now famous note considered by many as an ultimatum:

TEXT OF THE AMERICAN NOTE TO GERMANY.

DEPARTMENT OF STATE,
Washington, April 18, 1916.

THE SECRETARY OF STATE TO AMBASSADOR GERARD.

You are instructed to deliver to the Secretary of Foreign Affairs a communication reading as follows:

"I did not fail to transmit immediately, by telegraph, to my Government Your Excellency's note of the 10th instant in regard to certain attacks by German submarines, and particularly in regard to the disastrous explosion which, on March 24 last, wrecked the French steamship *Sussex* in the English Channel. I have now the honor to deliver, under instructions from my Government, the following reply to Your Excellency:

"Information now in the possession of the Government of the United States fully establishes the facts in the case of the *Sussex*, and the inferences which my Government has drawn from that information it regards as confirmed by the circumstances set forth in Your Excellency's note of the 10th instant. On the 24th of March, 1916, at about 2.50 o'clock in the afternoon, the unarmed steamer *Sussex*, with 325 or more passengers on board, among whom were a number of American citizens, was torpedoed while crossing from Folkestone to Dieppe. The *Sussex* had never been armed, was a vessel known to be habitually used for the conveyance of passengers across the English Channel, and was not following the route taken by troopships or supply ships. About 80 of her passengers, noncombatants of all ages and sexes, including citizens of the United States, were killed or injured.

"A careful, detailed, and scrupulously impartial investigation by naval and military officers of the United States has conclusively

established the fact that the *Sussex* was torpedoed without warning or summons to surrender, and that the torpedo by which she was struck was of German manufacture. In the view of the Government of the United States, these facts from the first made the conclusion that the torpedo was fired by a German submarine unavoidable. It now considers that conclusion substantiated by the statements in your excellency's note. A full statement of the facts upon which the Government of the United States has based its conclusion is inclosed.

"The Government of the United States, after having given careful consideration to the note of the Imperial Government of the 10th of April, regrets to state that the impression made upon it by the statements and proposals contained in that note is that the Imperial Government has failed to appreciate the gravity of the situation, which has resulted not alone from the attack on the *Sussex* but from the whole method and character of submarine warfare as disclosed by the unrestrained practice of the commanders of German undersea craft during the past 12 months and more in the indiscriminate destruction of merchant vessels of all sorts, nationalities, and destinations. If the sinking of the *Sussex* had been an isolated case, the Government of the United States might find it possible to hope that the officer who was responsible for that act had willfully violated his orders or had been criminally negligent in taking none of the precautions they prescribed, and that the ends of justice might be satisfied by imposing upon him an adequate punishment, coupled with a formal disavowal of the act and payment of a suitable indemnity by the Imperial Government. But, though the attack upon the *Sussex* was manifestly indefensible and caused a loss of life so tragical as to make it stand forth as one of the most terrible examples of the inhumanity of submarine warfare as the commanders of German vessels are conducting it, it unhappily does not stand alone.

"On the contrary, the Government of the United States is forced by recent events to conclude that it is only one instance, even though one of the most extreme and most distressing instances, of the deliberate method and spirit of indiscriminate destruction of merchant vessels of all sorts, nationalities, and destinations which have become more and more unmistakable as the activity of German undersea vessels of war has in recent months been quickened and extended.

"The Imperial Government will recall that when, in February, 1915, it announced that its intention of treating the waters surrounding Great Britain and Ireland as embraced within the seat of war and of destroying all merchant ships owned by its enemies that might be found within that zone of danger, and warned all vessels, neutrals as well as belligerent, to keep out of the waters thus proscribed or to enter them at their peril, the Government of the United States earnestly protested. It took the position that such a policy could not be pursued without constant gross and palpable violations of the accepted law of nations, particularly if submarine craft were to be employed as its instruments, inasmuch as the rules prescribed by that law—rules founded on the principles of humanity and established for the protection of the lives of noncombatants at sea—could not in the nature of the case be observed by such vessels. It based it protest on the ground that persons of neutral nationality and vessels of neutral ownership would be exposed to extreme and intolerable risks,

and that no right to close any part of the high seas could lawfully be asserted by the Imperial Government in the circumstances then existing. The law of nations in these matters, upon which the Government of the United States based that protest, is not of recent origin or founded upon merely arbitrary principles set up by convention. It is based, on the contrary, upon manifest principles of humanity, and has long been established with the approval and by the express assent of all civilized nations.

"The Imperial Government, notwithstanding, persisted in carrying out the policy announced, expressing the hope that the dangers involved, at any rate to neutral vessels, would be reduced to a minimum by the instructions which it had issued to the commanders of its submarines, and assuring the Government of the United States that it would take every possible precaution both to respect the rights of neutrals and to safeguard the lives of noncombatants.

"In pursuance of this policy of submarine warfare against the commerce of its adversaries, thus announced and thus entered upon in despite of the solemn protest of the Government of the United States, the commanders of the Imperial Government's undersea vessels have carried on practices of such ruthless destruction which have made it more and more evident as the months have gone by that the Imperial Government has found it impracticable to put any such restraints upon them as it had hoped and promised to put. Again and again the Imperial Government has given its solemn assurances to the Government of the United States that at least passenger ships would not be thus dealt with, and yet it has repeatedly permitted its undersea commanders to disregard those assurances with entire impunity. As recently as February last it gave notice that it would regard all armed merchantmen owned by its enemies as part of the armed naval forces of its adversaries and deal with them as with men-of-war, thus, at least by implication, pledging itself to give warning to vessels which were not armed and to accord security of life to their passengers and crews; but even this limitation their submarine commanders have recklessly ignored.

"Vessels of neutral ownership, even vessels of neutral ownership bound from neutral port to neutral port, have been destroyed, along with vessels of belligerent ownership, in constantly increasing numbers. Sometimes the merchantmen attacked have been warned and summoned to surrender before being fired on or torpedoed; sometimes their passengers and crews have been vouchsafed the poor security of being allowed to take to the ship's boats before the ship was sent to the bottom. But again and again no warning has been given, no escape even to the ship's boats allowed to those on board. Great liners like the *Lusitania* and *Arabic* and mere passenger boats like the *Sussex* have been attacked without a moment's warning, often before they have even become aware that they were in the presence of an armed ship of the enemy, and the lives of noncombatants, passengers and crew, have been destroyed wholesale and in a manner which the Government of the United States can not but regard as wanton and without the slightest color of justification. No limit of any kind has, in fact, been set to their indiscriminate pursuit and destruction of merchantmen of all kinds and nationalities within the waters which the Imperial Government has chosen to designate as lying within the seat of war. The roll of Americans who have lost

their lives upon ships thus attacked and destroyed has grown month by month until the ominous toll has mounted into the hundreds.

"The Government of the United States has been very patient. At every stage of this distressing experience of tragedy after tragedy it has sought to be governed by the most thoughtful consideration of the extraordinary circumstances of an unprecedented war and to be guided by sentiments of very genuine friendship for the people and Government of Germany. It has accepted the successive explanations and assurances of the Imperial Government as, of course, given in entire sincerity and good faith, and has hoped, even against hope, that it would prove to be possible for the Imperial Government so to order and control the acts of its naval commanders as to square its policy with the recognized principles of humanity as embodied in the law of nations. It has made every allowance for unprecedented conditions and has been willing to wait until the facts became unmistakable and were susceptible of only one interpretation.

"It now owes it to a just regard for its own rights to say to the Imperial Government that that time has come. It has become painfully evident to it that the position which it took at the very outset is inevitable, namely, the use of submarines for the destruction of an enemy's commerce, is, of necessity, because of the very character of the vessels employed and the very methods of attack which their employment of course involves, utterly incompatible with the principles of humanity, the long-established and incontrovertible rights of neutrals, and the sacred immunities of noncombatants.

"If it is still the purpose of the Imperial Government to prosecute relentless and indiscriminate warfare against vessels of commerce by the use of submarines, without regard to what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue: Unless the Imperial Government should now immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether. This action the Government of the United States contemplates with the greatest reluctance, but feels constrained to take in behalf of humanity and the rights of neutral nations.

"LANSING."

On the day after sending the note to Germany, the President addressed the Congress on the issue, as follows:

Gentlemen of the Congress, a situation has arisen in the foreign relations of the country of which it is my plain duty to inform you very frankly.

It will be recalled that in February, 1915, the Imperial German Government announced its intention to treat the waters surrounding Great Britain and Ireland as embraced within the seat of war, and to destroy all merchant ships owned by its enemies that might be found within any part of that portion of the high seas, and that it warned all vessels, of neutral as well as belligerent ownership,

to keep out of the waters it had thus prescribed, or else enter them at their peril. The Government of the United States earnestly protested. It took the position that such a policy could not be pursued without the practical certainty of gross and palpable violations of the law of nations, particularly if submarine craft were to be employed as its instruments, inasmuch as the rules prescribed by that law, rules founded upon principles of humanity and established for the protection of the lives of noncombatants at sea, could not in the nature of the case be observed by such vessels. It based its protest on the ground that persons of neutral nationality and vessels of neutral ownership would be exposed to extreme and intolerable risks, and that no right to close any part of the high seas against their use or to expose them to such risks could lawfully be asserted by any belligerent Government. The law of nations in these matters, upon which the Government of the United States based its protest, is not of recent origin or founded upon merely arbitrary principles set up by convention. It is based, on the contrary, upon manifest and imperative principles of humanity, and has long been established with the approval and by the express assent of all civilized nations.

Notwithstanding the earnest protest of our Government, the Imperial German Government at once proceeded to carry out the policy it had announced. It expressed the hope that the dangers involved, at any rate the dangers to neutral vessels, would be reduced to a minimum by the instructions which it had issued to its submarine commanders, and assured the Government of the United States that it would take every possible precaution both to respect the rights of neutrals and to safeguard the lives of noncombatants.

What has actually happened in the year which has since elapsed has shown that those hopes were not justified, those assurances insusceptible of being fulfilled. In pursuance of the policy of submarine warfare against the commerce of its adversaries thus announced and entered upon by the Imperial German Government despite the solemn protest of this Government, the commanders of German undersea vessels have attacked merchant ships with greater and greater activity, not only upon the high seas surrounding Great Britain and Ireland but wherever they could encounter them, in a way that has grown more and more ruthless, more and more indiscriminate as the months have gone by, less and less observant of restraints of any kind, and have delivered their attacks without compunction against vessels of every nationality and bound upon every sort of errand. Vessels of neutral ownership, even vessels of neutral ownership bound from neutral port to neutral port, have been destroyed along with vessels of belligerent ownership in constantly increasing numbers. Sometimes the merchantman attacked has been warned and summoned to surrender before being fired on or torpedoed; sometimes passengers or crews have been vouchsafed the poor security of being allowed to take to the ship's boats before she was sent to the bottom. But again and again no warning has been given, no escape even to the ship's boats allowed to those on board. What this Government foresaw must happen has happened. Tragedy has followed tragedy on the seas in such fashion, with such attendant circumstances as to make it grossly evident that warfare of such a sort, if warfare it be, can not be carried on without the most palpable

violation of the dictates alike of right and of humanity. Whatever the disposition and intention of the Imperial German Government, it has manifestly proved impossible for it to keep such methods of attack upon the commerce of its enemies within the bounds set by either the reason or the heart of mankind.

In February of the present year the Imperial German Government informed this Government and the other neutral Governments of the world that it had reason to believe that the Government of Great Britain had armed all merchant vessels of British ownership and had given them secret orders to attack any submarine of the enemy they might encounter upon the seas, and that the Imperial German Government felt justified in the circumstances in treating all armed merchantmen of belligerent ownership as auxiliary vessels of war, which it would have the right to destroy without warning. The law of nations has long recognized the right of merchantmen to carry arms for protection and to use them to repel attack, though to use them in such circumstances at their own risks; but the Imperial German Government claimed the right to set these understandings aside in circumstances which it deemed extraordinary. Even the terms in which it announced its purpose thus still further to relax the restraints it had previously professed its willingness and its desire to put upon the operations of its submarines carried the plain implication that at least vessels which were not armed would still be exempt from destruction without warning, and that personal safety would be accorded their passengers and crews; but even that limitation, if it was ever practicable to observe it, has in fact constituted no check at all upon the destruction of ships of every sort.

Again and again the Imperial German Government has given this Government its solemn assurances that at least passenger ships would not be thus dealt with, and yet it has again and again permitted its undersea commanders to disregard those assurances with entire immunity. Great liners like the *Lusitania* and the *Arabic* and mere ferry-boats like the *Sussex* have been attacked without a moment's warning, sometimes before they had even become aware that they were in the presence of an armed vessel of the enemy, and the lives of non-combatants, passengers and crew, have been sacrificed wholesale in a manner which the Government of the United States can not but regard as wanton and without the slightest color of justification. No limit of any kind has in fact been set to the indiscriminate pursuit and destruction of merchantmen of all kinds and nationalties within the waters, constantly extending in area, where these operations have been carried on, and the roll of Americans who have lost their lives on ships thus attacked and destroyed has grown month by month until the ominous toll has mounted into the hundreds.

One of the latest and most shocking instances of this method of warfare was that of the destruction of the French cross-channel steamer *Sussex*. It must stand forth, as the sinking of the steamer *Lusitania* did, as so singularly tragical and unjustifiable as to constitute a truly terrible example of the inhumanity of submarine warfare as the commanders of German vessels have for the past 12 months been conducting it. If this instance stood alone, some explanation, some disavowal by the German Government, some evidence of criminal mistake or willful disobedience on the part of the commander of the vessel that fired the torpedo might be sought or enter-

tained, but unhappily it does not stand alone. Recent events make the conclusion inevitable that it is only one instance, even though it be one of the most extreme and distressing instances, of the spirit and method of warfare which the Imperial German Government has mistakenly adopted and which from the first exposed that Government to the reproach of thrusting all neutral rights aside in pursuit of its immediate objects.

The Government of the United States has been very patient. At every stage of this distressing experience of tragedy after tragedy in which its own citizens were involved it has sought to be restrained from any extreme course of action or of protest by a thoughtful consideration of the extraordinary circumstances of this unprecedented war; and actuated in all that it said or did by the sentiments of genuine friendship which the people of the United States have always entertained and continue to entertain toward the German nation. It has, of course, accepted the successive explanations and assurances of the Imperial German Government as given in entire sincerity and good faith and has hoped, even against hope, that it would prove to be possible for the German Government so to order and control the acts of its naval commanders as to square its policy with the principles of humanity as embodied in the law of the nations. It has been willing to wait until the significance of the facts became absolutely unmistakable and susceptible of but one interpretation.

That point has now unhappily been reached. The facts are susceptible of but one interpretation. The Imperial German Government has been unable to put any limits or restraints upon its warfare against either freight or passenger ships. It has therefore become painfully evident that the position which this Government took at the very outset is inevitable, namely, that the use of submarines for the destruction of an enemy's commerce is of necessity—because of the very character of the vessels employed and the very methods of attack which their employment of course involves—incompatible with the principles of humanity, the long-established and incontrovertible rights of neutrals, and the sacred immunities of noncombatants.

I have deemed it my duty therefore to say to the Imperial German Government that if it is still its purpose to prosecute relentless and indiscriminate warfare against vessels of commerce by the use of submarines, notwithstanding the now demonstrated impossibility of conducting that warfare in accordance with what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue, and that unless the Imperial German Government should now immediately declare and effect an abandonment of its present methods of warfare against passenger and freight carrying vessels this Government can have no choice but to sever diplomatic relations with the Government of the German Empire altogether.

This decision I have arrived at with the keenest regret; the possibility of the action contemplated I am sure all thoughtful Americans will look forward to with unaffected reluctance. But we can not forget that we are in some sort and by the force of circumstances the responsible spokesmen of the rights of humanity, and that we can not remain silent while those rights seem in process of being swept

utterly away in the maelstrom of this terrible war. We owe it to a due regard for our own rights as a Nation, to our sense of duty as a representative of the rights of neutrals the world over and to a just conception of the rights of mankind to take this stand now with the utmost solemnity and firmness.

I have taken it, and taken it in the confidence that it will meet with your approval and support. All sober-minded men must unite in hoping that the Imperial German Government, which has in other circumstances stood as the champion of all that we are now contending for in the interest of humanity, may recognize the justice of our demands and meet them in the spirit in which they are made.

On the 5th of May Germany made reply to our note, which in the main seems to meet our demand. The significant statement is in the following words:

In accordance with the general principles of visit and search and the destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared a naval war zone, shall not be sunk without warning and without saving human lives, unless the ship attempt to escape or offer resistance.

TEXT OF GERMANY'S REPLY TO OUR NOTE.

BERLIN, *May 5, 1916.*
(By wireless to Sayville.)

Following is the text of the note of the German Government in reply to the American note respecting submarine warfare, delivered yesterday by Gottlieb von Jagow, the foreign secretary, to Ambassador Gerard:

The undersigned on behalf of the Imperial German Government, has the honor to present to his excellency the ambassador of the United States, Mr. James W. Gerard, the following reply to the note of April 20, regarding the conduct of German submarine warfare:

"The German Government handed over to the proper naval authorities for early investigation the evidence concerning the *Sussex*, as communicated by the Government of the United States. Judging by the results that the investigation has hitherto yielded, the German Government is alive to the possibility that the ship mentioned in the note of April 10 as having been torpedoed by a German submarine is actually identical with the *Sussex*.

"The German Government begs to reserve further communication on the matter until certain points are ascertained which are of decisive importance for establishing the facts of the case. Should it turn out that the commander was wrong in assuming the vessel to be a man-of-war, the German Government will not fail to draw the consequence resulting therefrom.

"In connection with the case of the *Sussex* the Government of the United States made a series of statements, the gist of which is the assertion that the incident is to be considered but one instance of a deliberate method of indiscriminate destruction of vessels of all sorts, nationalities, and destinations by German submarine commanders.

"The German Government must emphatically repudiate the assertion. The German Government, however, thinks it of little avail

to enter into details in the present stage of affairs, more particularly as the Government of the United States omitted to substantiate the assertion by reference to concrete facts.

"The German Government will only state that it has imposed far-reaching restraints upon the use of the submarine weapon, solely in consideration of neutrals' interests, in spite of the fact that these restrictions are necessarily of advantage to Germany's enemies. No such consideration has ever been shown neutrals by Great Britain and her allies.

"The German submarine forces have had, in fact, orders to conduct the submarine warfare in accordance with the general principles of visit and search and the destruction of merchant vessels recognized by international law, the sole exception being the conduct of warfare against enemy trade carried on enemy freight ships encountered in the war zone surrounding Great Britain. With regard to these, no assurances have ever been given to the Government of the United States. No such assurances are contained in the declaration of February 8, 1916.

"The German Government can not admit any doubt that these orders were given or are executed in good faith. Errors actually occurred. They can in no kind of warfare be avoided altogether. Allowances must be made in the conduct of naval warfare against an enemy resulting to all kinds of ruses, whether permissible or illicit.

"But apart from the possibility of errors, naval warfare, just like warfare on land, implies unavoidable dangers for neutral persons and goods entering the fighting zone. Even in cases where the naval action is confined to ordinary forms of cruiser warfare, neutral persons and goods repeatedly come to grief.

"The German Government has repeatedly and explicitly pointed out the dangers from mines that have led to the loss of numerous ships.

"The German Government has made several proposals to the Government of the United States in order to reduce to a minimum for American travelers and goods the inherent dangers of naval warfare. Unfortunately the Government of the United States decided not to accept the proposals. Had it accepted, the Government of the United States would have been instrumental in preventing the greater part of the accidents that American citizens have met with in the meantime.

"The German Government still stands by its offer to come to an agreement along these lines.

"As the German Government repeatedly declared, it can not dispense with the use of the submarine weapon in the conduct of warfare against enemy trade. The German Government, however, has now decided to make a further concession, adapting methods of submarine war to the interests of neutrals. In reaching its decision the German Government is actuated by considerations which are above the level of the disputed question.

"The German Government attaches no less importance to the sacred principles of humanity than the Government of the United States. It again fully takes into account that both Governments for many years cooperated in developing international law in conformity with these principles, the ultimate object of which has always been

to confine warfare on sea and land to armed forces of belligerents and safeguard as far as possible noncombatants against the horrors of war.

"But although these considerations are of great weight, they alone would not, under present circumstances, have determined the attitude of the German Government. For in answer to the appeal by the Government of the United States on behalf of the sacred principles of humanity and international law, the German Government must repeat once more, with all emphasis, that it was not the German, but the British Government which ignored all accepted rules of international law and extended this terrible war to the lives and property of noncombatants, having no regard whatever for the interests and rights of neutrals and noncombatants that through this method of warfare have been severely injured.

"In self-defense against the illegal conduct of British warfare, while fighting a bitter struggle for national existence, Germany had to resort to the hard but effective weapon of submarine warfare.

"As matters stand, the German Government can not but reiterate regret that the sentiments of humanity, which the Government of the United States extends with such fervor to the unhappy victims of submarine warfare, are not extended with the same warmth of feeling to many millions of women and children who, according to the avowed intention of the British Government, shall be starved, and who by sufferings shall force the victorious armies of the central powers into ignominious capitulation.

"The German Government, in agreement with the German people, fails to understand this discrimination, all the more as it has repeatedly and explicitly declared itself ready to use the submarine weapon in strict conformity with the rules of international law as recognized before the outbreak of the war, if Great Britain likewise was ready to adapt the conduct of warfare to these rules.

"Several attempts made by the Government of the United States to prevail upon the British Government to act accordingly failed because of flat refusal on the part of the British Government. Moreover, Great Britain again and again has violated international law, surpassing all bounds in outraging neutral rights. The latest measure adopted by Great Britain, declaring German bunker coal contraband and establishing conditions under which English bunker coal alone is supplied to neutrals, is nothing but an unheard-of attempt by way of exaction to force neutral tonnage into the service of the British trade war.

"The German people knows that the Government of the United States has the power to confine the war to armed forces of the belligerent countries, in the interest of humanity and maintenance of international law. The Government of the United States would have been certain of attaining this end had it been determined to insist, against Great Britain, on the incontrovertible rights to freedom of the seas. But as matters stand the German people is under the impression that the Government of the United States, while demanding that Germany, struggling for existence, shall restrain the use of an effective weapon, and while making compliance with these demands a condition for maintenance of relations with Germany, confines itself to protests against illegal methods adopted by Germany's enemies. Moreover, the German people knows to what con-

siderable extent its enemies are supplied with all kinds of war material from the United States.

"It will therefore be understood that the appeal made by the Government of the United States to sentiments of humanity and principles of international law can not, under the circumstances, meet the same hearty response from the German people which such an appeal otherwise always is certain to find here. If the German Government, nevertheless, is resolved to go to the utmost limit of concessions, it has been guided not alone by the friendship connecting the two great nations for over 100 years, but also by the thought of the great doom which threatens the entire civilized world should the cruel and sanguinary war be extended and prolonged.

"The German Government, conscious of Germany's strength, twice within the last few months announced before the world its readiness to make peace on a basis safeguarding Germany's vital interests, thus indicating that it is not Germany's fault if peace is still withheld from the nations of Europe. The German Government feels all the more justified in declaring that responsibility could not be borne before the forum of mankind and in history if after 21 months of the war's duration the submarine question, under discussion between the German Government and the Government of the United States, were to take a turn seriously threatening maintenance of peace between the two nations.

"As far as lies with the German Government, it wishes to prevent things from taking such a course. The German Government, moreover, is prepared to do its utmost to confine operations of the war for the rest of its duration to the fighting forces of the belligerents, thereby also insuring the freedom of the seas, a principle upon which the German Government believes, now as before, that it is in agreement with the Government of the United States.

"The German Government, guided by this idea, notifies the Government of the United States that German naval forces have received the following order:

"'In accordance with the general principles of visit and search and the destruction of merchant vessels, recognized by international law, such vessels, both within and without the area declared a naval war zone, shall not be sunk without warning and without saving human lives unless the ship attempt to escape or offer resistance.'

"But neutrals can not expect that Germany, forced to fight for existence, shall, for the sake of neutral interests, restrict the use of an effective weapon, if the enemy is permitted to continue to apply at will methods of warfare violating rules of international law. Such a demand would be incompatible with the character of neutrality, and the German Government is convinced that the Government of the United States does not think of making such a demand, knowing that the Government of the United States repeatedly declares that it is determined to restore the principle of freedom of the seas, from whatever quarter it has been violated.

"Accordingly, the German Government is confident that in consequence of the new orders issued to the naval forces the Government of the United States will also now consider all impediments removed which may have been in the way of a mutual cooperation toward restoration of the freedom of the seas during the war, as suggested

in the note of July 23, 1915, and it does not doubt that the Government of the United States will now demand and insist that the British Government shall forthwith observe the rules of international law universally recognized before the war, as are laid down in the notes presented by the Government of the United States to the British Government December 28, 1914, and November 5, 1915.

"Should steps taken by the Government of the United States not attain the object it desires, to have the laws of humanity followed by all belligerent nations, the German Government would then be facing a new situation in which it must reserve to itself complete liberty of decision.

"The undersigned avails himself of this opportunity to renew to the American ambassador assurances of highest consideration.

"VON JAGOW."

This position on the sensitive submarine issue indicated clearly Germany's desire to avoid the steps which might lead to severing diplomatic relations. It was partially anticipated in the address of the chancellor, Von Hollweg, in the Reichstag on the 5th of April, about 10 days after our note on the *Sussex*, out of which the latest controversy arose. The address in part, as given out from Berlin, is as follows:

BERLIN, *April 5, 1916.*
(By wireless to Sayville.)

In the Reichstag to-day Chancellor Bethmann Hollweg, in the most comprehensive speech he has delivered since the war began, derided the reports—calumniously circulated by the allies, he said—that Germany contemplated an attack upon the United States after the European war was ended, and had designs upon the territory of South American States.

The chancellor, whose address was delivered to a crowded house, also spoke of the questions presented in relation to the principle of nationality, considering the Polish, Lithuanian, Livonian, Belgian, and Flemish problems. He insisted upon the necessity of guaranteeing the peace of Europe after the war, and also of securing this result by giving to these races opportunity of free evolution along the lines of their natural individualities and mother tongues.

"TOWARD A FUTURE OF LIBERTY."

At the conclusion of his address the chancellor elicited great applause by saying:

"The spirit of union shall lead us, as it shall lead our children and grandchildren, through the struggles of their fathers, toward a future of strength and liberty."

The chancellor began his address with a review of the military situation. He said that since his last speech in the Reichstag the Dardanelles enterprise had ended as a failure; that the Serbian campaign, with the assistance of Austria-Hungary and Bulgaria, had been brought to a victorious conclusion, and that Montenegro and Albania likewise were now in the hands of Germany's allies; that the British attempt to relieve Kut-el-Amara, in Mesopotamia, had

been vain; that the Russians, although they had succeeded in occupying Erzerum with superior numbers, had found their advance checked by strong Turkish forces; that Russian attacks against the front in East Galicia and Italian attacks against the Isonzo positions had been beaten back. Moreover, he said, the Russians had driven columns against the German lines, but their assaults had broken down before Field Marshal von Hindenburg and his "heroes."

The chancellor declared that the reports of the enemies of this nation that the German military force had been expended were erroneous, as the Verdun battle had proved that where operations were prepared with great foresight and where the bravery of German troops was called into play one advantage after another had been obtained. He then expressed the nation's thanks to the soldiers and their leaders.

Discussing attempts which he said were being made to starve Germany, Dr. von Bethmann Hollweg continued:

"I understood that in 1915 our enemies would not give up this hope, but I do not understand how cool heads, after the experience of 1915, can cling to it. Our enemies forget that, thanks to the organizing powers of the whole nation, Germany is equal to the task of distribution of food supplies.

"'MORAL RESERVES' AGAINST STARVATION.

"Our enemies forget that in cases in which there is a real shortage the German Nation is able to make use of moral reserves which enable us to lower our standard of life, which has risen remarkably during the last decades. What would it mean, for instance, if the consumption of meat should temporarily be lowered to the level of the seventies? I should think our adversaries would remember how strong was the German race of those days."

Conditions of life in Germany were not easy, the chancellor continued, but the difficulties were being met in admirable fashion by the entire nation, especially the poorer classes. The crop reports indicated, he said, that all the winter crops were good; in fact, the reports had not been so favorable for many years previously. The harvest of 1915 was the worst of decades; nevertheless, the stocks of grain for bread making not only would be sufficient but provided for a considerable reserve with which to begin the new year.

"We shall not run short of anything in the future, as we have not done in the past," he said.

The chancellor asserted that it was the intention of Germany's enemies to extend the war to the women and children of the nation by starving them, and that for this purpose Great Britain and her allies had interfered with the trade of neutrals.

"The American note of November 5, 1915, gave an exact description of British violations of the nations' laws," he continued, "but as far as I know it has not been answered up to this day.

"No fair-minded neutral, no matter whether he favors us or not, can doubt our right to defend ourselves against this war of starvation, which is contrary to international law. No one can ask us to permit our arms of defense to be wrested from our hands. We use them, and must use them. We respect legitimate rights of neutral

trade and commerce, but we have a right to expect that this will be appreciated, and that our right and our duty be recognized—to use all means against this policy of starvation, which is a jeering insult not only to all laws of nations but also to the plainest duties of humanity."

"THERE MUST BE A NEW BELGIUM."

Amid profound silence and the deep attention of the whole house the chancellor turned to the Polish problem and to that of nationalities in general, saying:

"Neither Germany nor Austria-Hungary intended to touch the Polish question, but the fate of battles brought them in contact with it. Now this problem stands before the world and needs to be solved. Germany and Austria-Hungary must and will solve it. History will not admit that after such earthquakes things will ever become what they were before.

"After the war there must be a new Belgium.

"Formerly Poland was left in the hands of the tchinovnik [Russian police agent]. Even members of the Russian Duma have frankly admitted that he ought not to return to the place where Germans, Austrians, and Poles have honestly labored in the interests of this unfortunate land.

"Mr. Asquith also mentions the principle of nationality. If he puts himself in the position of this unconquered and unconquerable adversary, can he really suppose that Germany will ever of her owr free will deliver into the hands of reactionary Russia the nations between the Baltic and the Volhynian swamps who have been freed by her and by her allies—no matter whether they are Poles or Lithuanians or Livonians of the Baltic?"

DENIES HOPE OF AMERICAN CONQUESTS.

Dr. von Bethmann Hollweg protested vigorously against the report that Germany now or in the future contemplated aggression against the United States.

"The latest offspring of the caluminiating campaign directed against us," he said, "is a report that after the end of this war we shall rush against the American Continent, and that we shall attempt to conquer Canada.

"This is the silliest of all the imputations invented against us. Equally silly are the reports that we contemplate the acquisition of any territory on American soil, as in Brazil, or in any American country whatsoever.

"We fight for our existence and for our future. For Germany and not for space in a foreign country are Germany's sons bleeding and dying on the battle field. Every one among us knows this, and it makes our hearts and nerves so strong. This moral force strengthens our will in order not only to weather the storm but also to achieve final victory."

The chancellor intimated that any suggestions of peace on the basis of the destruction of Prussian military power would make possible only one answer—the German sword.

Dr. von Bethmann Hollweg turned to the subject of eventual conditions of peace after a brief reference to the entrance of Portugal into the war. He pointed out that in his speech of September 9 he had declared readiness to enter into discussion of peace, but that then, as now, Germany's enemies declined his offer.

"Let us suppose I suggest to Mr. Asquith to sit down with me at a table and examine the possibilities of peace," he continued, "and Mr. Asquith begins with a claim of definitive and complete destruction of Prussia's military power. The conversation would be ended before it began. To these peace conditions only one answer would be left, and this answer our sword must give."

FUTURE SLAUGHTER BLAMED ON ALLIES.

"If our adversaries want to continue the slaughter of human beings and the devastation of Europe theirs will be the guilt, and we shall have to stand it as men."

The chancellor introduced a personal touch in the following passage:

"When I was last at headquarters I stood with the Emperor at a place to which I had accompanied him one year previously. The Emperor remembered this and, deeply moved, pointed out the enormous changes that had taken place since that time. Then the Russians were on the ridge of the Carpathians. At Corlice we had just begun to break through the enemy's lines, and Hindenburg's powerful offensive had just been started. Now we are deep in Russia.

"The British and French at that time had attacked Gallipoli, and were hoping to arouse the Balkans against us. Now the Bulgarians stand firmly on our side. Then we were engaged in the defensive Champagne battle, and now, at the Emperor's word, the cannon resound in the Verdun battle. Deep gratitude to God, to the army, and to the nation filled the Emperor's heart."

AIMS TO RESCUE EUROPE FROM CHAOS.

"Our enemies wish to destroy united, free Germany," the chancellor went on. "They desire that Germany shall be again as weak as during past centuries, a prey of all lusts of domination of her neighbors, and the scapegoat of Europe, beaten back forever in the dominion of economic evolution, even after the war. That is what our enemies mean when they speak of definitive destruction of Prussia's military power.

"And what is our intention? The sense and aim of this war is for us the creation of a Germany so firmly united, so strongly protected, that no one ever will feel the temptation to annihilate us; that every one in the world will concede to us the right of free exercise of our peaceful endeavors. This Germany, and not the destruction of other races, is what we wish. Our aim is the lasting rescue of the European Continent, which is now shaken to its very foundation."

SAYS PEACE MUST BE LASTING.

Referring to the conditions which he wished to see prevail at the end of the war, the chancellor said:

"This new Europe in many respects can not resemble the past. The blood which has been shed will never be repaid and the wealth

which has been destroyed can only slowly be replaced. But whatever else this Europe may be it must be for the nations that inhabit it a land of peaceful labor. The peace which shall end this war shall be a lasting peace. It must not bear the germ of new wars, but must provide for a peaceful arrangement of European questions."

The chancellor declared that England wished to see military operations ended, but hoped then to continue the commercial war with redoubled violence, adding:

"First, the British endeavor to destroy our military and then our economic policy. Everywhere there is brutal lust of destruction and of annihilation and domination to cripple a nation of 70,000,000 people."

As to colonial questions, he quoted Bismarck to the effect that the fate of colonies was decided on the Continent. He asserted that Germany's enemies were now actively engaged in inventing new formulas in order to maintain the spell of illusion, hatred, and deception which bound them.

ALLIES' "LUST OF REVENGE."

"Of all the nations in the war," he continued, "only Germany has been threatened by her enemies and by their responsible spokesmen with annihilation, with partition of her realm, with destruction of her essential political and economic forces, no matter whether they called them Prussianism or militarism or barbarism. The forces which before the war bound together the anti-German coalition were lust of conquest, lust of revenge, and jealousy against German competition in the world's markets. During the war they have remained powerful with the Governments of our enemies in spite of all defeats.

"This is still the object and aim of the war alike in St. Petersburg (Petrograd), Paris, and London.

"To this we oppose that Germany in this war had only one aim, namely, to defend herself, to maintain her existence, to hold her enemies back from the German frontiers, and whenever their lust of destruction had shown itself to drive them back as quickly as possible.

"We did not want this war. We felt no desire to change our frontiers when the war began against our will. We threatened no nation with annihilation of her existence or with destruction of her national life."

"LOVED PEACE MORE THAN ALL OTHERS."

The chancellor pointed out the roots of Germany's present strength, saying:

"And what gives us this force to conquer and overcome the difficulties caused by the interruption of our over-seas trade and, on the front, numerically superior enemies? Who can readily believe that greed of land inspires our columns at Verdun and makes them accomplish every day new deeds of heroism, or shall a nation which gave to the world so many valued intellectual and useful gifts, which during 44 years loved peace more than all the others—shall this nation overnight be transformed into barbarians and Huns?

"No, gentlemen; these are the inventions of the evil conscience of those who are guilty of the war and are now fearing for their power and influence in their own countries."

With respect to the intentions of Germany in the case of Belgium, the speaker said:

"We must create real guaranties that Belgium never shall be a Franco-British vassal; never shall be used as a military or economic fortification against Germany. Also in this respect things can not be what they were before. Also here Germany can not sacrifice the oppressed Flemish race, but must assure them sound evolution which corresponds to their rich, natural gifts, which is based on their mother tongue and follows their national character.

"We want neighbors that do not form coalitions against us, but with whom we collaborate and who collaborate with us to our mutual advantage. Remembrance of the war will still echo in the sadly tried Belgian country, but we shall never allow that this will be a new source of wars—shall not allow it in our mutual interests."

On the 8th the President sent his answer to the German Government, which is an acceptance of the German position, so long as the instructions to the submarine commanders as outlined above are respected:

PRESIDENT WILSON'S ANSWER TO GERMANY.

WASHINGTON, *May 8, 1916.*

The American ambassador in Berlin was instructed to-day by cable to deliver the following note to the German minister of foreign affairs:

"The note of the Imperial German Government under date of May 4, 1916, has received careful consideration by the Government of the United States. It is especially noted, as indicating the purpose of the Imperial Government as to the future, that it 'is prepared to do its utmost to confine the operations of the war for the rest of its duration to the fighting forces of the belligerents' and that it is determined to impose upon all its commanders at sea the limitations of the recognized rules of international law upon which the Government of the United States has insisted.

"Throughout the months which have elapsed since the Imperial Government announced, on February 4, 1915, its submarine policy, now happily abandoned, the Government of the United States has been constantly guided and restrained by motives of friendship in its patient efforts to bring to an amicable settlement the critical questions arising from that policy. Accepting the Imperial Government's declaration of its abandonment of the policy which has so seriously menaced the good relations between the two countries, the Government of the United States will rely upon a scrupulous execution henceforth of the now altered policy of the Imperial Government, such as will remove the principal danger to an interruption of the good relations existing between the United States and Germany.

"The Government of the United States feels it necessary to state that it takes it for granted that the Imperial German Government does not intend to imply that the maintenance of its newly announced policy

is in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government, notwithstanding the fact that certain passages in the Imperial Government's note of the 4th instant might appear to be susceptible of that construction. In order, however, to avoid any possible misunderstanding, the Government of the United States notifies the Imperial Government that it can not for a moment entertain, much less discuss, a suggestion that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other Government affecting the rights of neutrals and noncombatants. Responsibility in such matters is single, not joint; absolute, not relative.

"LANSING."

The State Department made the following statement for the public after the note was sent to Berlin:

STATEMENT BY MR. LANSING.

The greater part of the German answer is devoted to matters which this Government can not discuss with the German Government. The only questions of right which can be discussed with that Government are those arising out of its action or out of our own, and in no event those questions which are the subject of diplomatic exchanges between the United States and any other country.

The essence of the answer is that Germany yields to our representations with regard to the rights of merchant ships and noncombatants on the high seas and engages to observe the recognized rules of international law governing naval warfare in using her submarines against merchant ships. So long as she lives up to this altered policy we can have no reason to quarrel with her on that score, though the losses resulting from the violation of American rights by German submarine commanders operating under the former policy will have to be settled.

While our differences with Great Britain can not form a subject of discussion with Germany, it should be stated that in our dealings with the British Government we are acting as we are unquestionably bound to act, in view of the explicit treaty engagements with that Government. We have treaty obligations as to the manner in which matters in dispute between the two Governments are to be handled. We offered to assume mutually similar obligations with Germany, but the offer was declined. When, however, the subject in dispute is a continuing menace to American lives it is doubtful whether such obligations apply unless the menace is removed during the pendency of the proceedings.

The treaty with the British Government referred to is the convention negotiated by ex-Secretary Bryan under which the two nations agree that any dispute arising shall be submitted to an investigating commission for one year before entering into hostilities. An offer to enter into such a treaty with Germany brought a request for information, but formal negotiations never were instituted.

In May Germany announces her submarine captains must abide by international law:

THE GERMAN AMBASSADOR TO THE SECRETARY OF STATE.

GERMAN EMBASSY,
Washington, May 12, 1916.

Mr. SECRETARY OF STATE: A German submarine in January last signaled with flags from a distance the Dutch steamer *Bandoeng* to stop. Instead of immediately complying with that summons, permissible under international law, the Dutch steamer turned at high speed on the submarine, whose commander, on the assumption warranted by the circumstances that he had to do with an English ship in disguise bent on attacking him, then opened fire on her. The steamer *Bandoeng* then stopped and sent over a boat for the examination of the ship's papers. On being asked about his captain's proceeding the Dutch officer in command of the boat explained that he wanted to come nearer the submarine so as to shorten the visitation formalities.

The Imperial Government finds in the incident occasion to suggest to the neutral Governments that the masters of their merchant ships be given to understand that in the event of thus being stopped by German public vessels the provisions of international law must be observed to the letter, and that their special attention be called to the danger incurred by turning their ships on a submarine. Thus alone can incidents of the foregoing description be avoided, the responsibility for which would exclusively lie upon the neutral shipmaster.

Accept, etc.,

BERNSTORFF.

Notwithstanding this feeling of assurance that Germany had acceded to our rights in the defensive-armed merchantmen issue, as well as the submarine contention, the following paragraph was not reassuring:

Accordingly, the German Government is confident that, in consequence of the new orders issued to its naval forces, the Government of the United States will now also consider all impediments removed which may have been in the way of a mutual cooperation toward the restoration of the freedom of the seas during the war, as suggested in the note of July 23, 1915, and it does not doubt that the Government of the United States will now demand and insist that the British Government shall forthwith observe the rules of international law universally recognized before the war as they are laid down in the notes presented by the Government of the United States to the British Government on December 28, 1914, and November 5, 1915. Should the steps taken by the Government of the United States not attain the object it desires, to have the laws of humanity followed by all belligerent nations, the German Government would then be facing a new situation, in which it must reserve itself complete liberty of decision.

It will be noted that Germany has never disavowed the *Lusitania* sinking.

The American Government's note of April 18, 1916, was looked upon as a final statement, and it was thought to be so regarded by Germany. The possibility of the great neutral power being drawn into the vortex was thought to be negligible.

The world's interests were centered at Berlin when on the 12th of December the famous peace conference was proposed by the Kaiser.

BERLIN, *December 12.*

Following is the text of the note addressed by Germany and her allies to the neutral powers for transmission to the entente allies:

"The most terrific war experienced in history has been raging for the last two years and a half over a large part of the world—a catastrophe which thousands of years of common civilization was unable to prevent and which injures the most precious achievements of humanity.

"Our aims are not to shatter nor annihilate our adversaries. In spite of our consciousness of our military and economic strength and our readiness to continue the war (which has been forced upon us) to the bitter end, if necessary, at the same time, prompted by the desire to avoid further bloodshed and to make an end to the atrocities of war, the four allied powers propose to enter forthwith into peace negotiatons.

"The propositions which they bring forward for such negotiations, and which have for their object a guaranty of the existence of the honor and liberty of evolution for their nations, are, according to their firm belief, an appropriate basis for the establishment of a lasting peace.

"The four allied powers have been obliged to take up arms to defend justice and the liberty of national evolution. The glorious deeds of our armies have in no way altered their purpose. We always maintained the firm belief that our own rights and justified claims in no way control the rights of these nations.

"The spiritual and material progress which were the pride of Europe at the beginning of the twentieth century are threatened with ruin. Germany and her allies, Austria-Hungary, Bulgaria, and Turkey, gave proof of their unconquerable strength in this struggle. They gained gigantic advantages over adversaries superior in number and war material. Our lines stand unshaken against ever-repeated attempts made by armies.

"The last attack in the Balkans has been rapidly and victoriously overcome. The most recent events have demonstrated that further continuance of the war will not result in breaking the resistance of our forces, and the whole situation with regard to our troops justifies our expectation of further successes.

"If, in spite of this offer of peace and reconciliation, the struggle should go on, the four allied powers are resolved to continue to a victorious end, but they disclaim responsibility for this before humanity and history. The Imperial Government, through the good offices of your excellency, asks the Government of [here is inserted the name of the neutral power addressed in each instance] to bring this communication to the knowledge of the Government of [here are inserted the names of the belligerents]."

TO THE VATICAN.

BERLIN, *December 12.*

The note of the German Government, as presented by Dr. von Muhlberg, German minister to the Vatican, to Cardinal Gasparri, papal secretary of state, reads as follows:

"According to instructions received, I have the honor to send to your eminence a copy of the declaration of the Imperial Government to-day, which by the good offices of the powers intrusted with the protection of German interests in the countries with which the German Empire is in a state of war, transmits to these States, and in which the Imperial Government declares itself ready to enter into peace negotiations. The Austro-Hungarian, Turkish, and Bulgarian Governments also have sent similar notes.

"The reasons which prompted Germany and her allies to take this step are manifest. For two years and a half a terrible war has been devastating the European Continent. Unlimited treasures of civilization have been destroyed. Extensive areas have been soaked with blood. Millions of brave soldiers have fallen in battle and millions have returned home as invalids. Grief and sorrow fill almost every house.

"Not only upon the belligerent nations, but also upon neutrals, the destructive consequences of the gigantic struggle weigh heavily. Trade and commerce, carefully built up in years of peace, have been depressed. The best forces of the nation have been drawn from the production of useful objects. Europe, which formerly was devoted to the propagation of religion and civilization, which was trying to find solutions for social problems, and was the home of science and art and all peaceful labor, now resembles an immense war camp in which the achievements and works of many decades are doomed to annihilation.

"Germany is carrying on a war of defense against her enemies, which aim at her destruction. She fights to assure the integrity of her frontiers and the liberty of the German nation, for the right which she claims to develop freely her intellectual and economic energies in peaceful competition and on an equal footing with other nations. All the efforts of their enemies are unable to shatter the heroic armies of the (Teutonic) allies which protect the frontiers of their countries, strengthened by the certainty that the enemy shall never pierce the iron wall.

"Those fighting on the front know that they are supported by the whole nation, which is inspired by love for its country and is ready for the greatest sacrifices and determined to defend to the last extremity the inherited treasures of intellectual and economic work and the social organization and sacred soil of the country.

"Certain of our own strength, but realizing Europe's sad future if the war continues; seized with pity in the face of the unspeakable misery of humanity, the German Empire, in accord with her allies, solemnly repeats what the chancellor already has declared a year ago, that Germany is ready to give peace to the world by setting before the whole world the question whether or not it is possible to find a basis for an understanding.

"Since the first day of the pontifical reign, his holiness the Pope has unswervingly demonstrated in the most generous fashion his

solicitude for the innumerable victims of this war. He has alleviated the sufferings and ameliorated the fate of thousands of men injured by this catastrophe. Inspired by the exalted ideas of his ministry, his holiness has seized every opportunity in the interests of humanity to end so sanguinary a war.

"The Imperial Government is firmly confident that the initiative of the four powers will find friendly welcome on the part of his holiness, and that the work of peace can count upon the precious support of the Holy See."

On the 18th of December the President addressed his own famous and much-discussed peace note to the belligerents, and which was made public on the 20th:

President Wilson's Note to the Belligerent Nations.

THE SECRETARY OF STATE TO THE AMERICAN AMBASSADORS OF THE CAPITALS OF THE BELLIGERENT POWERS.

Department of State,
Washington, D. C., December 18, 1916.

The President directs me to send you the following communication to be presented immediately to the minister of foreign affairs of the Government to which you are accredited:

The President of the United States has instructed me to suggest to the [here is inserted a designation of the Government addressed] a course of action with regard to the present war, which he hopes that the Government will take under consideration as suggested in the most friendly spirit, and as coming not only from a friend but also as coming from the representative of a neutral nation whose interests have been most seriously affected by the war and whose concern for its early conclusion arises out of a manifest necessity to determine how best to safeguard those interests if the war is to continue.

[The third paragraph of the note as sent to the four central powers—Germany, Austria-Hungary, Turkey, and Bulgaria—is as follows:]

The suggestion which I am instructed to make the President has long had it in mind to offer. He is somewhat embarrased to offer it at this particular time, because it may now seem to have been prompted by a desire to play a part in connection with the recent overtures of the central powers. It has, in fact, been in no way suggested by them in its origin, and the President would have delayed offering it until those overtures had been independently answered but for the fact that it also concerns the question of peace and may best be considered in connection with other proposals which have the same end in view. The President can only beg that his suggestion be considered entirely on its own merits and as if it had been made in other circumstances.

[The third paragraph of the note as sent to the 10 entente allies—Great Britain, France, Italy, Japan, Russia, Belgium, Montenegro, Portugal, Roumania, and Serbia—is as follows:]

The suggestion which I am instructed to make the President has long had it in mind to offer. He is somewhat embarrassed to offer it at this particular time, because it may now seem to have been prompted by the recent overtures of the central powers. It is, in

fact, in no way associated with them in its origin, and the President would have delayed offering it until those overtures had been answered but for the fact that it also concerns the question of peace and may best be considered in connection with other proposals which have the same end in view. The President can only beg that his suggestion be considered entirely on its own merits and as if it had been made in other circumstances.

[Thenceforward the note proceeds identically to all the powers, as follows:]

The President suggests that an early occasion be sought to call out from all the nations now at war such an avowal of their respective views as to the terms upon which the war might be concluded and the arrangements which would be deemed satisfactory as a guaranty against its renewal or the kindling of any similar conflict in the future as would make it possible frankly to compare them. He is indifferent as to the means taken to accomplish this. He would be happy himself to serve, or even to take the initiative in its accomplishment, in any way that might prove acceptable, but he has no desire to determine the method or the instrumentality. One way will be as acceptable to him as another, if only the great object he has in mind be attained.

He takes the liberty of calling attention to the fact that the objects, which the statesmen of the belligerents on both sides have in mind in this war, are virtually the same, as stated in general terms to their own people and to the world. Each side desires to make the rights and privileges of weak peoples and small States as secure against aggression or denial in the future as the rights and privileges of the great and powerful States now at war. Each wishes itself to be made secure in the future, along with all other nations and peoples, against the recurrence of wars like this and against aggression or selfish interference of any kind. Each would be jealous of the formation of any more rival leagues to preserve an uncertain balance of power amid multiplying suspicions; but each is ready to consider the formation of a league of nations to insure peace and justice throughout the world. Before that final step can be taken, however, each deems it necessary first to settle the issues of the present war upon terms which will certainly safeguard the independence, the territorial integrity, and the political and commercial freedom of the nations involved.

"In the measures to be taken to secure the future peace of the world the people and Government of the United States are as vitally and as directly interested as the Governments now at war. Their interest, moreover, in the means to be adopted to relieve the smaller and weaker peoples of the world of the peril of wrong and violence is as quick and ardent as that of any other people or Government. They stand ready, and even eager, to cooperate in the accomplishment of these ends, when the war is over, with every influence and resource at their command. But the war must first be concluded. The terms upon which it is to be concluded they are not at liberty to suggest; but the President does feel that it is his right and his duty to point out their intimate interest in its conclusion, lest it should presently be too late to accomplish the greater things which lie beyond its conclusion, lest the situation of neutral nations, now exceedingly hard to endure, be rendered altogether intolerable, and lest,

more than all, an injury be done civilization itself which can never be atoned for or repaired.

"The President therefore feels altogether justified in suggesting an immediate opportunity for a comparison of views as to the terms which must precede those ultimate arrangements for the peace of the world, which all desire and in which the neutral nations as well as those at war are ready to play their full responsible part.

"If the contest must continue to proceed toward undefined ends by slow attrition until the one group of belligerents or the other is exhausted; if million after million of human lives must continue to be offered up until on the one side or the other there are no more to offer; if resentments must be kindled that can never cool and despairs engendered from which there can be no recovery, hopes of peace and of the willing concert of free peoples will be rendered vain and idle.

"The life of the entire world has been profoundly affected. Every part of the great family of mankind has felt the burden and terror of this unprecedented contest of arms. No nation in the civilized world can be said in truth to stand outside its influence or to be safe against its disturbing effects. And yet the concrete objects for which it is being waged have never been definitely stated.

"The leaders of the several belligerents have, as has been said, stated those objects in general terms. But, stated in general terms, they seem the same on both sides. Never yet have the authoritative spokesmen of either side avowed the precise objects which would, if attained, satisfy them and their people that the war had been fought out. The world has been left to conjecture what definitive results, what actual exchange of guaranties, what political or territorial changes or readjustments, what stage of military success, even, would bring the war to an end.

"It may be that peace is nearer than we know; that the terms which the belligerents on the one side and on the other would deem it necessary to insist upon are not so irreconcilable as some have feared; that an interchange of views would clear the way at least for conference and make the permanent concord of the nations a hope of the immediate future, a concert of nations immediately practicable.

"The President is not proposing peace; he is not even offering mediation. He is merely proposing that soundings be taken in order that we may learn, the neutral nations with the belligerent, how near the haven of peace may be for which all mankind longs with an intense and increasing longing. He believes that the spirit in which he speaks and the objects which he seeks will be understood by all concerned, and he confidently hopes for a response which will bring a new light into the affairs of the world.

"LANSING.

The President transmitted the German note of December 12 to the entente powers December 19.

The entente powers replied December 30:

REPLY OF THE ENTENTE ALLIES TO THE CENTRAL POWERS.

The text of the entente reply to the Teuton peace proposal is as follows:

"The allied Governments of Belgium, France, Great Britain, Italy, Japan, Montenegro, Portugal, Roumania, Russia, and Serbia, united

for the defense of the liberty of their peoples and faithful to engagements taken not to lay down their arms separately, have resolved to reply collectively to the pretended propositions of peace which were addressed to them on behalf of the enemy Governments through the intermediary of the United States, Spain, Switzerland, and Holland.

"Before making any reply the allied powers desire particularly to protest against the two essential assertions of the notes of the enemy powers that pretend to throw upon the allies responsibility for the war and proclaim the victory of the central powers. The allied Governments can not admit an affirmation doubly inexact and which suffices to render sterile all tentative negotiations. The allied nations have sustained for 30 months a war they did everything to avoid. They have shown by their acts their attachment to peace. That attachment is as strong to-day as it was in 1914. But it is not upon the word of Germany, after the violation of its engagements, that the peace broken by her may be based.

"A mere suggestion, without a statement of terms, that negotiations should be opened is not an offer of peace. The putting forward by the Imperial Government of a sham proposal lacking all substance and precision would appear to be less an offer of peace than a war maneuver. It is founded on calculated misinterpretation of the character of the struggle in the past, the present, and the future.

"As for the past, the German note takes no account of the facts, dates, and figures, which establish that the war was desired, provoked, and declared by Germany and Austria-Hungary.

"At The Hague conference it was a German delegate who refused all proposals for disarmament. In July, 1914, it was Austria-Hungary who, after having addressed to Serbia an unprecedented ultimatum, declared war upon her in spite of the satisfaction which had at once been accorded.

"The central empires then rejected all attempts made by the entente to bring about a pacific solution of a purely local conflict. Great Britain suggested a conference; France proposed an international commission; the Emperor of Russia asked the German Emperor to go to arbitration, and Russia and Austria-Hungary came to an understanding on the eve of the conflict. But to all these efforts Germany gave neither answer nor effect.

"Belgium was invaded by an empire which had guaranteed her neutrality and which had the assurance to proclaim that treaties were 'scraps of paper' and that 'necessity knows no law.'

"At the present moment these sham offers on the part of Germany rest on the war map of Europe alone, which represents nothing more than a superficial and passing phase of the situation and not the real strength of the belligerents. A peace concluded upon these terms would be only to the advantage of the aggressors who, after imagining that they would reach their goal in two months, discovered after two years that they could never attain it.

"As for the future the disasters caused by the German declaration of war and the innumerable outrages committed by Germany and her allies against both belligerents and neutrals demand penalties, reparation, and guaranties. Germany avoids mention of any of these.

"In reality these overtures made by the central powers are nothing more than a calculated attempt to influence the future course of war and to end it by imposing a German peace. The object of these overtures is to create dissension in public opinion in the allied countries. But that public opinion has, in spite of all the sacrifices endured by the allies, already given its answer with admirable firmness and has denounced the empty pretense of the declaration of the enemy powers.

"They (the peace overtures) have the further object of stiffening public opinion in Germany and in the countries allied to her—one and all severely tried by their losses, worn out by economic pressure, and crushed by the supreme effort which has been imposed upon their inhabitants.

"They endeavor to deceive and intimidate public opinion in neutral countries, whose inhabitants have long since made up their minds where the initial responsibilities lie and are far too enlightened to favor the designs of Germany by abandoning the defense of human freedom.

"Finally, these overtures attempt to justify in advance in the eyes of the world a new series of crimes—submarine warfare, deportations, forced labor, and forced enlistment of the inhabitants against their own countries, and violations of neutrality.

"Fully conscious of the gravity of this moment, but equally conscious of its requirements, the allied Governments, closely united to one another and in perfect sympathy with their peoples, refuse to consider a proposal which is empty and insincere.

"Once again the allies declare that no peace is possible so long as they have not secured reparation for violated rights and liberties, the recognition of the principle of nationality, and of the free existence of small States, so long as they have not brought about a settlement calculated to end once and for all forces which have constituted a perpetual menace to the nations, and to afford the only effective guaranty for the future security of the world.

"In conclusion, the allied powers think it necessary to put forward the following considerations, which show the special situation of Belgium after two and a half years of war. In virtue of the international treaties signed by five great European powers, of which Germany was one, Belgium enjoyed before the war a special status, rendering her territory inviolable and placing her, under the guaranty of the powers, outside all European conflicts. She was, however, in spite of these treaties, the first to suffer the aggression of Germany. For this reason the Belgian Government think it necessary to define the aims which Belgium has never ceased to pursue while fighting side by side with the entente powers for right and justice.

"Belgium has always scrupulously fulfilled the duties which her neutrality imposed upon her. She has taken up arms to defend her independence and her neutrality violated by Germany and to show that she remains faithful to her international obligations.

"On the 4th of August, 1914, in the Reichstag, the German chancellor admitted that this aggression constituted an injustice contrary to the laws of nations, and pledged himself in the name of Germany to repair it. During two and a half years this injustice has been cruelly aggravated by the proceedings of the occupying forces, which

have exhausted the resources of the country, ruined its industries, devastated its towns and villages, and have been responsible for innumerable massacres, executions, and imprisonments.

"At this very moment, while Germany is proclaiming peace and humanity to the world, she is deporting Belgian citizens by thousands and reducing them to slavery.

"Belgium before the war asked for nothing but to live in harmony with her neighbors. Her King and her Government have but one aim—the reestablishment of peace and justice. But they only desire peace which would assure to their country legitimate reparation, guaranties, and safeguards for the future."

On the 22d of January the President addressed the Senate as follows:

TEXT OF PRESIDENT WILSON'S ADDRESS BEFORE THE SENATE GIVING HIS IDEAS OF STEPS NECESSARY FOR WORLD PEACE.

GENTLEMEN OF THE SENATE: On the 18th of December last I addressed an identic note to the Governments of the nations now at war requesting them to state more definitely than there had yet been stated by either group of belligerents the terms upon which they would deem it possible to make peace. I spoke on behalf of humanity and of the rights of all neutral nations like our own, many of whose most vital interests the war puts in constant jeopardy. The central powers united in a reply which stated merely that they were ready to meet their antagonists in conference to discuss terms of peace.

The entente powers have replied much more definitely and have stated, in general terms, indeed, but with sufficient definiteness to imply details, the arrangements, guarantees, and acts of reparation which they deem to be the indispensable conditions of a satisfactory settlement.

We are that much nearer a definite discussion of the peace, which shall end the present war. We are that much nearer the discussion of the international concert which must thereafter hold the world at peace.

In every discussion of the peace that must end this war it is taken for granted that that peace must be followed by some definite concert of power which will make it virtually impossible that any such catastrophe should ever overwhelm us again. Every lover of mankind, every sane and thoughtful man, must take that for granted.

I have sought this opportunity to address you because I thought that I owed it to you, as the council associated with me in the final determination of our international obligations, to disclose to you without reserve the thought and purpose that have been taking form in my mind in regard to the duty of our Government in these days to come, when it will be necessary to lay afresh and upon a new plan the foundations of peace among nations.

It is inconceivable that the people of the United States should play no part in that great enterprise. To take part in such a service will be the opportunity for which they have sought to prepare themselves by the very principles and purposes of their policy and the approved practices of their Government ever since the days when

they set up a new Nation in the high and honorable hope that it might, in all that it was and did, show mankind the way to liberty. They can not in honor withhold the service to which they are now about to be challenged. They do not wish to withhold it. But they owe it to themselves and to the other nations of the world to state the conditions under which they will feel free to render it.

That service is nothing less than this: To add their authority and their power to the authority and force of other nations to guarantee peace and justice throughout the world. Such a settlement can not now be long postponed. It is right that before it comes this Government should frankly formulate the conditions upon which it would feel justified in asking our people to approve its formal and solemn adherence to a league for peace. I am here to attempt to state those conditions.

The present war must first be ended; but we owe it to candor and to a joint regard for the opinion of mankind to say that so far as our participation in guarantee of future peace is concerned it makes a great deal of difference in what way and upon what terms it is ended. The treaties and agreements which bring it to an end must embody terms which will create a peace that is worth guaranteeing and preserving; a peace that will win the approval of mankind, not merely a peace that will serve the several interests and immediate aims of the nations engaged. We shall have no voice in determining what those terms shall be, but we shall, I feel sure, have a voice in determining whether they shall be made lasting or not by the guarantees of a universal covenant; and our judgment upon what is fundamental and essential as a condition precedent to permanency should be spoken now, not afterwards, when it may be too late.

No covenant of cooperative peace that does not include the peoples of the New World can suffice to keep the future safe against war; and yet there is only one sort of peace that the peoples of America could join in guaranteeing.

The elements of that peace must be elements that engage the confidence and satisfy the principles of the American Governments, elements consistent with their political faith and the practical convictions which the peoples of America have once for all embraced and undertaken to defend.

I do not mean to say that any American government would throw any obstacle in the way of any terms of peace the Governments now at war might agree upon, or seek to upset them when made, whatever they might be.

I only take it for granted that mere terms of peace between the belligerents will not be satisfactory even to the belligerents themselves. Mere agreements may not make peace secure. It will be absolutely necessary that a force be created as a guarantor of the permanency of the settlement so much greater than the force of any nation now engaged or any alliance hitherto formed or projected that no nation, no probable combination of nations, could face or withstand it. If the peace presently to be made is to endure, it must be a peace made secure by the organized major force of mankind.

The terms of the immediate peace agreed upon will determine whether it is a peace for which such a guaranty can be secured. The question upon which the whole future peace and policy of the world depends is this:

And the paths of the sea must, alike in law and in fact, be free. The freedom of the seas is the sine qua non of peace, equality, and cooperation. No doubt a somewhat radical reconsideration of many of the rules of international practice hitherto sought to be established may be necessary in order to make the seas indeed free and common in practically all circumstances for the use of mankind, but the motive for such changes is convincing and compelling. There can be no trust or intimacy between the peoples of the world without them. The free, constant, unthreatened intercourse of nations is an essential part of the process of peace and of development.

It need not be difficult to define or to secure the freedom of the seas if the Governments of the world sincerely desire to come to an agreement concerning it.

It is a problem closely connected with the limitation of naval armament and the cooperation of the navies of the world in keeping the seas at once free and safe. And the question of limiting naval armaments opens the wider and perhaps more difficult question of the limitation of armies and of all programs of military preparation.

Difficult and delicate as these questions are, they must be faced with the utmost candor and decided in a spirit of real accommodation if peace is to come with healing in its wings, and come to stay. Peace can not be had without concession and sacrifice. There can be no sense of safety and equality among the nations if great preponderating armaments are henceforth to continue here and there to be built up and maintained.

The statesmen of the world must plan for peace, and nations must adjust and accommodate their policy to it as they have planned for war and made ready for pitiless contest and rivalry.

The question of armaments, whether on land or sea, is the most immediately and intensely practical question connected with the future fortunes of nations and of mankind.

I have spoken upon these great matters without reserve and with the utmost explicitness because it has seemed to me to be necessary if the world's yearning desire for peace was anywhere to find free voice and utterance. Perhaps I am the only person in high authority amongst all the peoples of the world who is at liberty to speak and hold nothing back. I am speaking as an individual, and yet I am speaking also, of course, as the responsible head of a great Government, and I feel confident that I have said what the people of the United States would wish me to say.

May I not add that I hope and believe that I am in effect speaking for liberals and friends of humanity in every nation and of every program of liberty? I would fain believe that I am speaking for the silent mass of mankind everywhere who have as yet had no place or opportunity to speak their real hearts out concerning the death and ruin they see to have come already upon the persons and the homes they hold most dear.

And in holding out the expectation that the people and Government of the United States will join the other civilized nations of the world in guaranteeing the permanence of peace upon such terms as I have named I speak with the greater boldness and confidence, because it is clear to every man who can think that there is in this promise no breach in either our traditions or our policy as a nation, but a fulfillment rather of all that we have professed or striven for.

I am proposing, as it were, that the nations should with one accord adopt the doctrine of President Monroe as the doctrine of the world; that no nation should seek to extend its policy over any other nation or people, but that every people should be left free to determine its own polity, its own way of development, unhindered, unthreatened, unafraid, the little along with the great and powerful.

I am proposing that all nations henceforth avoid entangling alliances which would draw them into competitions of power, catch them in a net of intrigue and selfish rivalry, and disturb their own affairs with influences intruded from without. There is no entangling alliance in a concert of power. When all unite to act in the same sense and with the same purpose all act in the common interest and are free to live their own lives under a common protection.

I am proposing government by the consent of the governed; that freedom of the seas which in international conference after conference representatives of the United States have urged with the eloquence of those who are the convinced disciples of liberty; and that moderation of armaments which makes of armies and navies a power for order merely, not an instrument of aggression or of selfish violence.

These are American principles, American policies. We can stand for no others. And they are also the principles and policies of forward-looking men and women everywhere, of every modern nation, of every enlightened community. They are the principles of mankind and must prevail.

Is the present war a struggle for a just and secure peace or only for a new balance of power? If it be only a struggle for a new balance of power, who will guarantee, who can guarantee, the stable equilibrium of the new arrangement? Only a tranquil Europe can be a stable Europe. There must be not a balance of power but a community of power, not organized rivalries but an organized common peace.

Fortunately, we have received very explicit assurances on this point. The statesmen of both of the groups of nations now arrayed against one another have said in terms that could not be misinterpreted that it was no part of the purpose they had in mind to crush their antagonists. But the implications of these assurances may not be equally clear to all—may not be the same on both sides of the water. I think it will be serviceable if I attempt to set forth what we understand them to be.

They imply, first of all, that it must be a peace without victory. It is not pleasant to say this. I beg that I may be permitted to put my own interpretation upon it and that it may be understood that no other interpretation was in my thought. I am seeking only to face realities and to face them without soft concealments. Victory would mean peace forced upon the loser—a victor's terms imposed upon the vanquished.

It would be accepted in humiliation, under duress, at an intolerable sacrifice, and would leave a sting, a resentment, a bitter memory upon which terms of peace would rest not permanently but only as upon quicksand. Only a peace between equals can last. Only a peace the very principle of which is equality and a common participation in a common benefit. The right state of mind, the right feeling between nations, is as necessary for a lasting peace as is the just

settlement of vexed questions of territory or of racial and national allegiance.

The equality of nations upon which peace must be founded if it is to last must be an equality of rights; the guaranties exchanged must neither recognize nor imply a difference between big nations and small, between those that are powerful and those that are weak. Right must be based upon the common strength, not upon the individual strength, of the nations upon whose concert peace will depend.

Equality of territory or of resources there, of course, can not be; nor any other sort of equality not gained in the ordinary peaceful and legitimate development of the peoples themselves. But no one asks or expects anything more than an equality of rights. Mankind is looking now for freedom of life, not for equipoises of power.

And there is a deeper thing involved than even equality of right among organized nations. No peace can last, or ought to last, which does not recognize and accept the principle that governments derive all their just powers from the consent of the governed, and that no right anywhere exists to hand people about from sovereignty to sovereignty as if they were property.

I take it for granted, for instance, if I may venture upon a single example, that statesmen everywhere are agreed that there should be a united, independent, and autonomous Poland, and that henceforth inviolable security of life, of worship, and of industrial and social development should be guaranteed to all peoples who have lived hitherto under the power of governments devoted to a faith and purpose hostile to their own.

I speak of this not because of any desire to exalt an abstract political principle, which has always been held very dear by those who have sought to build up liberty in America, but for the same reason that I have spoken of the other conditions of peace which seem to me clearly indispensable, because I wish frankly to uncover realities. Any peace which does not recognize and accept this principle will inevitably be upset.

It will not rest upon the affections or the convictions of mankind. The ferment of spirit of whole populations will fight subtly and constantly against it and all the world will sympathize. The world can be at peace only if its life is stable, and there can be no stability where the will is in rebellion, where there is not tranquillity of spirit and a sense of justice, of freedom, and of right.

So far as practicable, moreover, every great people now struggling toward a full development of its resources and of its powers should be assured a direct outlet to the great highways of the sea. Where this can not be done by the cession of territory, it can, no doubt, be done by the neutralization of direct rights of way under the general guaranty which will assure the peace itself. With a right comity of arrangement no nation need be shut away from free access to the open paths of the world's commerce.

In order to make this record fairly complete I here insert the President's address on the peace question here in the Capital on the evening of the 27th of last May at the Peace Conference banquet:

When the invitation to be here to-night came to me I was glad to accept it—not because it offered me an opportunity to discuss the

program of the league—that you will, I am sure, not expect of me—but because the desire of the whole world now turns eagerly, more and more eagerly, toward the hope of peace, and there is just reason why we should take our part in counsel upon this great theme. It is right that I, as spokesman of our Government, should attempt to give expression to what I believe to be the thought and purpose of the people of the United States in this vital matter.

This great war that broke so suddenly upon the world two years ago, and which has swept within its flame so great a part of the civilized world, has affected us very profoundly, and we are not only at liberty, it is perhaps our duty, to speak very frankly of it and of the great interests of civilization which it affects.

RIGHTS OF NATION AFFECTED.

With its causes and its objects we are not concerned. The obscure fountains from which its stupendous flood has burst forth we are not interested to search for or explore. But so great a flood, spread far and wide to every quarter of the globe, has of necessity engulfed many a fair province of right that lies very near to us.

Our own rights as a Nation, the liberties, the privileges, and the property of our people have been profoundly affected. We are not mere disinterested lookers-on.

The longer the war lasts the more deeply do we become concerned that it should be brought to an end and the world be permitted to resume its normal life and course again. And when it does come to an end we shall be as much concerned as the nations at war to see peace assume an aspect of permanence, give promise of days from which the anxiety of uncertainty shall be lifted, bring some assurance that peace and war shall always hereafter be reckoned part of the common interest of mankind.

ARE PARTNERS WITH THE REST.

We are participants, whether we would or not, in the life of the world. The interests of all nations are our own also. We are partners with the rest. What affects mankind is inevitably our affair as well as the affair of the nations of Europe and of Asia.

One observation on the causes of the present war we are at liberty to make, and to make it may throw some light forward upon the future as well as backward upon the past. It is plain that this war could have come only as it did, suddenly and out of secret counsels, without warning to the world, without discussion, without any of the deliberate movements of counsel with which it would seem natural to approach so stupendous a contest.

It is probable that if it had been foreseen just what would happen, just what alliances would be formed, just what forces arrayed against one another, those who brought the great contest on would have been glad to substitute conference

MIGHT HAVE AVERTED WAR.

If we ourselves had been afforded some opportunity to apprise the belligerents of the attitude which it would be our duty to take, of the

policies and practices against which we would feel bound to use all our moral and economic strength, and in certain circumstances even our physical strength also, our own contribution to the counsel which might have averted the struggle would have been considered worth weighing and regarding.

And the lesson which the shock of being taken by surprise in a matter so deeply vital to all nations of the world has made poignantly clear is that the peace of the world must henceforth depend upon a new and more wholesome diplomacy.

Only when the great nations of the world have reached some sort of agreement as to what they hold to be fundamental to their common interest, and as to some feasible method of acting in concert when any nation or group of nations seeks to disturb those fundamental things, can we feel that civilization is at last in a way of justifying its existence and claiming to be finally established.

MUST BE GOVERNED BY HONOR.

It is clear that nations must in the future be governed by the same high code of honor that we demand of individuals.

We must, indeed, in the very same breath with which we avow this conviction admit that we have ourselves upon occasion in the past been offenders against the law of diplomacy which we thus forecast; but our conviction is not the less clear, but rather the more clear, on that account.

If this war has accomplished nothing else for the benefit of the world, it has at least disclosed a great moral necessity and set forward the thinking of the statesmen of the world by a whole age.

Repeated utterances of the leading statesmen of most of the great nations now engaged in war have made it plain that their thought has come to this: That the principle of public right must henceforth take precedence over the individual interests of particular nations, and that the nations of the world must in some way band themselves together to see that that right prevails as against any sort of selfish aggression; that henceforth alliance must not be set up against alliance, understanding against understanding, but that there must be a common agreement for a common object, and that at the heart of that common object must lie the inviolable rights of peoples and of mankind.

NATIONS ARE NOW NEIGHBORS.

The nations of the world have become each other's neighbors. It is to their interest that they should understand each other. In order that they may understand each other it is imperative that they should agree to cooperate in a common cause, and that they should so act that the guiding principle of that common cause shall be even-handed and impartial justice.

This is undoubtedly the thought of America. This is what we ourselves will say when there comes proper occasion to say it. In the dealings of nations with one another arbitrary force must be rejected, and we must move forward to the thought of the modern world, the thought of which peace is the very atmosphere. That thought constitutes a chief part of the passionate conviction of America.

RIGHTS OF THE LITTLE NATIONS.

We believe these fundamental things: First, that every people has a right to choose the sovereignty under which they shall live. Like other nations, we have ourselves no doubt once and again offended against that principle when for a little while controlled by selfish passion, as our franker historians have been honorable enough to admit; but it has become more and more our rule of life and action. Second. That the small States of the world have a right to enjoy the same respect for their sovereignty and for their territorial integrity that great and powerful nations expect and insist upon. And, third, that the world has a right to be free from every disturbance of its peace that has its origin in aggression and disregard of the rights of peoples and nations.

So sincerely do we believe in these things that I am sure that I speak the mind and wish of the people of America when I say that the United States is willing to become a partner in any feasible association of nations formed in order to realize these objects and make them secure against violation.

READY TO CHECK AGGRESSION.

There is nothing that the United States wants for itself that any other nation has. We are willing, on the contrary, to limit ourselves along with them to a prescribed course of duty and respect for the rights of others which will check any selfish passion of our own, as it will check any aggressive impulse of theirs.

If it should ever be our privilege to suggest or initiate a movement for peace among the nations now at war, I am sure that the people of the United States would wish their Government to move along these lines:

First, such a settlement with regard to their own immediate interests as the belligerents may agree upon. We have nothing material of any kind to ask for ourselves, and are quite aware that we are in no sense or degree parties to the present quarrel. Our interest is only in peace and its future guaranties.

Second, an universal association of the nations to maintain the inviolate security of the highway of the seas for the common and unhindered use of all the nations of the world, and to prevent any war begun either contrary to treaty covenants or without warning and full submission of the causes to the opinion of the world—a virtual guaranty of territorial integrity and political independence.

ONLY AVOWS A CREED.

But I did not come here, let me repeat, to discuss a program. I came only to avow a creed and give expression to the confidence I feel that the world is even now upon the eve of a great consummation, when some common force will be brought into existence which shall safeguard right as the first and most fundamental interest of all peoples and all governments, when coercion shall be summoned not to the service of political ambition or selfish hostility but to the service of a common order, a common justice, and a common peace.

God grant that the dawn of that day of frank dealing and of settled peace, concord, and cooperation may be near at hand.

On January 31 Germany sent a note to the United States announcing her intention to use the submarine ruthlessly. The note is as follows:

TEXT OF GERMANY'S NOTE TO THE UNITED STATES.

WASHINGTON, D. C., *January 31, 1917.*

Mr. SECRETARY OF STATE:

Your Excellency was good enough to transmit to the Imperial Government a copy of the message which the President of the United States of America addressed to the Senate on the 22d instant. The Imperial Government has given it the earnest consideration which the President's statements deserve, inspired, as they are, by a deep sentiment of responsibility.

It is highly gratifying to the Imperial Government to ascertain that the main tendencies of this important statement correspond largely to the desires and principles professed by Germany. These principles especially include self-government and equality of rights for all nations. Germany would be sincerely glad if, in recognition of this principle, countries like Ireland and India, which do not enjoy the benefits of political independence, should now obtain their freedom.

The German people also repudiate all alliances which serve to force the countries into a competition for might and to involve them in a net of selfish intrigues. On the other hand, Germany will gladly cooperate in all efforts to prevent future wars.

The freedom of the seas, being a preliminary condition of the free existence of nations and the peaceful intercourse between them, as well as the open door for the commerce of all nations, has always formed part of the leading principles of Germany's political program. All the more the Imperial Government regrets that the attitude of her enemies, who are so entirely opposed to peace, makes it impossible for the world at present to bring about the realization of these lofty ideals.

Germany and her allies were ready to enter now into a discussion of peace, and had set down as basis the guarantee of existence, honor, and free development of their peoples. Their aims, as has been expressly stated in the note of December 12, 1916, were not directed toward the destruction or annihilation of their enemies and were, according to their conviction, perfectly compatible with the rights of the other nations. As to Belgium, for which such warm and cordial sympathy is felt in the United States, the chancellor had declared only a few weeks previously that its annexation had never formed part of Germany's intentions. The peace to be signed with Belgium was to provide for such conditions in that country, with which Germany desires to maintain friendly, neighborly relations, that Belgium should not be used again by Germany's enemies for the purpose of instigating continuous hostile intrigues. Such precautionary measures are all the more necessary, as Germany's enemies have repeatedly stated, not only in speeches delivered by their leading men but also in the statutes of the economical conference in Paris, that it is their intention not to treat Germany as an equal,

even after peace has been restored, but to continue their hostile attitude, and especially to wage a systematic economic war against her.

The attempt of the four allied powers to bring about peace has failed, owing to the lust of conquest of their enemies, who desired to dictate the conditions of peace. Under the pretense of following the principle of nationality, our enemies have disclosed their real aims in this way, viz: To dismember and dishonor Germany, Austria-Hungary, Turkey, and Bulgaria. To the wish of reconciliation they oppose the will of destruction. They desire a fight to the bitter end.

A new situation has thus been created which forces Germany to new decisions. Since two years and a half England is using her naval power for a criminal attempt to force Germany into submission by starvation. In brutal contempt of international law, the group of powers led by England does not only curtail the legitimate trade of their opponents but they also, by ruthless pressure, compel neutral countries either to altogether forego every trade not agreeable to the entente powers or to limit it according to their arbitrary decrees.

The American Government knows the steps which have been taken to cause England and her allies to return to the rules of international law and to respect the freedom of the seas. The English Government, however, insists upon continuing its war of starvation, which does not at all affect the military power of its opponents, but compels women and children, the sick and the aged, to suffer for their country pains and privations which endanger the vitality of the nation. Thus British tyranny mercilessly increases the sufferings of the world, indifferent to the laws of humanity, indifferent to the protests of the neutrals whom they severely harm, indifferent even to the silent longing for peace among England's own allies. Each day of the terrible struggle causes new destruction, new sufferings. Each day shortening the war will, on both sides, preserve the lives of thousands of brave soldiers and be a benefit to mankind.

The Imperial Government could not justify before its own conscience, before the German people, and before history the neglect of any means destined to bring about the end of the war. Like the President of the United States, the Imperial Government had hoped to reach this goal by negotiations. After the attempts to come to an understanding with the entente powers have been answered by the latter with the announcement of an intensified continuation of the war, the Imperial Government—in order to serve the welfare of mankind in a higher sense and not to wrong its own people—is now compelled to continue the fight for existence, again forced upon it, with the full employment of all the weapons which are at its disposal.

Sincerely trusting that the people and the Government of the United States will understand the motives for this decision and its necessity, the Imperial Government hopes that the United States may view the new situation from the lofty heights of impartiality and assist on their part to prevent further misery and unavoidable sacrifice of human life.

Inclosing two memoranda regarding the details of the contemplated military measures at sea, I remain, etc.

J. BERNSTORFF.

TEXT OF THE ANNEX TO GERMAN NOTE, OUTLINING BARRED ZONES AND PRESCRIBING CONDITIONS FOR AMERICAN VESSELS.

[By wireless to Sayville.]

BERLIN, *January 31.*

Following is the annex referred to in the German note:

"From February 1, 1917, within barred zones around Great Britain, France, Italy, and in the eastern Mediterranean, as outlined in the following, all sea traffic forthwith will be opposed. Such barred zones are:

"In the North Sea, the district around England and France, which is limited by a line 20 nautical miles; the district along the Dutch coast as far as the Terschelling Lightship, the degree of longitude of the Terschelling Lightship to Udsir; a line from there across the point 62° north latitude, 5° longitude, westward along 62° to a point 3 nautical miles south of the south point of Farove (Faroe Island?), from there across the point 62° north —° west, to 61° north, 15° west; then 57° north, 20° west, to 47° north, 20° west; farther, to 43° north, 15° west; then on degree latitude 43° north to the point 20 nautical miles from Cape Finisterre and 20 nautical miles distant along the Spanish north coast as far as the French frontier.

"Concerning the south, in the Mediterranean: For neutral shipping there remains open the sea district of a line from Point de les Paquett to 38° 20′ north and 6° east, as well as north and west of a zone 60 sea miles broad along the north African coast, beginning on (?) degrees west longitude.

"In order to connect this sea district with Greece, the zone leads 20 sea miles in width north or east, following this line: Thirty-eight degrees north and 6° east, 38° north, and 11° 30′ east, to 34° north and 11° 30′ east to 34° north and 22° 30′ east. From there it leads to a zone 20 sea miles broad west of 22° 30′ east longitude into Greek territorial waters.

"Neutral ships plying within the barred zones do so at their own risk. Although precautions are being taken to spare neutral ships which on February 1 are on the way to ports in the barred zone, during an appropriate delay, yet it is urgently to be advised that they should be warned and directed to other routes by all means available.

"Neutral ships lying in ports of the barred zones can with the same safety abandon the barred zones if they sail before February 5 and take the shortest route into the open district.

"Traffic of regular American passenger steamers can go on unmolested if—

"(*a*) Falmouth is taken as the port of destination; and if

"(*b*) On the going and return journey the Scilly Islands, as well as the point 50° north, 20° west, be steered on. Along this route no German mines will be laid.

"(*c*) If steamers on this journey bear the following special signals, which only they will be permitted to display in American ports: A coating of paint on the ship's hull and the superstructure in vertical stripes three meters broad, alternating white and red; on every mast a large flag of checkered white and red, on the stern the American national flag; during darkness the national flag and the coat of

paint to be as easily recognizable as possible from a distance; and the ships must be completely and brightly illuminated.

"(*d*) If only one steamer runs each week in each direction, arriving at Falmouth on Sundays, leaving Falmouth on Wednesdays.

"(*e*) If guaranties and assurances are given by the American Government that these steamers carry no contraband (according to the German list of contraband).

"Two copies of maps on which the barred zones are outlined are added."

The meaning of the new order as interpreted by the chancellor in his address to the Reichstag:

The chancellor opened the sitting with a speech of which the keynote words were:

"We have been challenged to fight to the end. We accept the challenge; we stake everything; and we shall be victorious."

He indicated that Germany was ready to accept the consequences of unrestricted U-boat warfare which had been decided upon. He wound up by saying:

"As regards all that human strength can do to enforce success for the fatherland, be assured, gentlemen, that nothing has been neglected. Everything in this respect will be done."

At the outset of his address the chancellor explained why in March and May, 1916, he opposed unrestricted submarine war, and why again in September, "according to the unanimous judgment of the political and military authorities, the question was not thought ripe for decision." On this matter he said:

"By the development of the situation the decision concerning submarine warfare has been forced into the last acute stage. The question of U-boat war, as members of the Reichstag will remember, has occupied us three times in this committee, namely, in March, May, and September of last year. On each occasion in an exhaustive statement I expounded the points for and against in this question. I emphasized on each occasion that I was speaking pro tempore, and not as a supporter in principle or opponent in principle of the unrestricted employment of U boats, but in consideration of the military, political, and economic situation as a whole.

"I have always proceeded from the standpoint of whether U-boat war would bring us nearer victorious peace or not. Every means, I said in March, that was calculated to shorten the war constitute the most humane policy to follow. When the most ruthless methods are considered best calculated to lead us to victory, and swift victory, I said, then they must be employed.

MUST STRIKE NOW.

"This moment has now arrived," he continued. "Last autumn the time was not yet ripe, but to-day the moment has come when, with the greatest prospect of success, we can undertake the enterprise. We must, therefore, not wait any longer.

"Where has there been any change in the situation?" the chancellor asked. "In the first place, the most important fact of all is that the number of our submarines has been very considerably in-

creased as compared with last spring, and thereby a firm basis for success has been established.

"The second codecisive reason is the bad cereal harvest of the world. This fact already confronts England, France, and Italy with serious difficulties, which by means of unrestricted U-boat war will be brought to a point of unbearableness.

"The coal question, too, is a vital question in war. Already it is critical in Italy and France, as you know. Our submarines will make it still more critical.

"To this must be added, especially as regards England, the supply of ore for the production of munitions, in the widest sense, and of timber for coal mines. The enemy's difficulties are rendered still more acute by the increasing lack of enemy cargo space. In this respect time and U-boat and cruiser warfare have prepared the ground for the decisive blow.

"The entente suffers owing to lack of cargo space. The lack makes itself felt in Italy and France no less than in England. If we may now venture to estimate the positive advantages of unrestricted U-boat war at a very much higher value than last spring, the dangers which arise for us from U-boat war have correspondingly decreased since that time."

READY TO ACCEPT ALL CONSEQUENCES.

The chancellor discussed in detail the political situation and then referred to military affairs as follows:

"A few days ago Field Marshal von Hindenburg described the situation to me thus: Our front stands firm on all sides. We have everywhere the requisite reserves. The spirit of our troops is good and confident. The military situation as a whole permits us to accept all the consequences which unrestricted U-boat war may bring, and as this U-boat war is the means of injuring our enemies the most grievously it must be begun.

"The admiralty staff and the high-seas fleet entertain the firm conviction (a conviction which has practical support in the experience gained in U-boat cruiser warfare) that Great Britain will be brought to peace by arms. Our allies agree with our views. Austria-Hungary adheres to our procedure also in practice. Just as we lay a blockaded area around Great Britain and the west coast of France, in which we will try to prevent all shipping traffic to the enemy countries, Austria-Hungary declares a blockaded area around Italy.

"To all neutral countries a free path for mutual intercourse is left outside the blockaded area. To America we offer, as we did in 1915, safe passenger traffic under definite conditions, even with Great Britain."

The chancellor here read the note to the United States and said that corresponding notes had been sent to the other neutral States. He concluded as follows:

"No one among us will close his eyes to the seriousness of the step we are taking. That our existence is at stake everyone has known since August 4, 1914, and this has been brutally emphasized by the rejection of our peace offer. When, in 1914, we had to seize and have

recourse to the sword against Russia's general mobilization we did so with the deepest sense of responsibility toward our people and conscious of resolute strength, which says: 'We must, and therefore we can.' Endless streams of blood have since been shed, but they have not washed away the 'must' and the 'can.'

"BEST AND SHARPEST WEAPON.

"In now deciding to employ our best and sharpest weapon we are guided solely by sober consideration of all the circumstances that come into the question and by the firm determination to help our people out of the distress and disgrace which our enemies contemplate for them.

"Success lies in a higher hand, but as regards all that human strength can do to enforce success for the Fatherland be assured, gentlemen, that nothing has been neglected. Everything in this respect will be done."

The chancellor was followed by the secretary of state for the admiralty, who spoke of the situation from the technical military and naval viewpoint. Detailed statistical data in regard to the economic position of the world was supplied by the secretary of the interior, and the foreign secretary, Herr Zimmermann, replied to several special questions.

After the ministers had spoken the committee went into secret session at which speeches were made by representatives of the Centrist, National Liberal, and Progressive parties.

On the 1st of February the following memorandum was given out:

MEMORANDUM DRAWN BY BERNSTORFF DELIVERED WITH NOTE; IT SAYS ALL SHIPS WITHIN BARRED ZONES "WILL BE SUNK."

WASHINGTON, *February 1.*

A second memorandum, delivered yesterday with the German note, and made public late to-day by the State Department, differs in some respects from the substance of the note itself. The understanding is that it was prepared at the German Embassy on instructions from Berlin prior to President Wilson's peace address to the Senate, and withheld then on account of the address. When Count von Bernstorff received the note and memorandum yesterday from Berlin he decided to deliver with them the original document prepared by him. The memorandum reads:

"After bluntly refusing Germany's peace offer the entente powers stated in their note addressed to the American Government that they are determined to continue the war in order to deprive Germany of German Provinces in the west and east, to destroy Austria-Hungary, and to annihilate Turkey. In waging war with such aims the entente allies are violating all rules of international law, as they prevent the legitimate trade of neutrals with the central powers and of the neutrals among themselves. Germany has so far not made unrestricted use of the weapons which she possesses in her submarines. Since the entente powers, however, have made it impossible to come to an understanding based upon equality of rights of all nations, as

proposed by the central powers, and have instead declared only such a peace to be possible which shall be dictated by the entente allies, and shall result in the destruction and the humiliation of the central powers, Germany is unable further to forego the full use of her submarines.

"The Imperial Government, therefore, does not doubt that the Government of the United States will understand the situation thus forced upon Germany by the entente allies' brutal methods of war and by their determination to destroy the central powers, and that the Government of the United States will further realize that the now openly disclosed intention of the entente allies gives back to Germany the freedom of action which she reserved in her note addressed to the Government of the United States on May 4, 1916.

"Under these circumstances Germany will meet the illegal measures of her enemies by forcibly preventing after February 1, 1917, in a zone around Great Britain, France, Italy, and in the eastern Mediterranean all navigation, that of neutrals included, from and to England and from and to France, etc. All ships met within that zone will be sunk.

"The Imperial Government is confident that this measure will result in a speedy termination of the war and in the restoration of peace, which the Government of the United States has so much at heart. Like the Government of the United States, Germany and her allies had hoped to reach this goal by negotiations. Now that the war, through the fault of Germany's enemies, has to be continued, the Imperial Government feels sure that the Government of the United States will understand the necessity of adopting such measures as are destined to bring about a speedy end of the horrible and useless bloodshed. The Imperial Government hopes all the more for such an understanding of her position, as the neutrals have under the pressure of the entente powers suffered great losses, being forced by them either to give up their entire trade or to limit it according to conditions arbitrarily determined by Germany's enemies in violation of international law."

Two days after the publication of the German submarine order the President addressed Congress as follows:

TEXT OF PRESIDENT WILSON'S ADDRESS.

WASHINGTON, *February 3.*

The President's address to the joint session of Congress to-day was as follows:

"GENTLEMEN OF THE CONGRESS: The Imperial German Government on the 31st day of January announced to this Government and to the Governments of the other neutral nations that on and after the 1st day of February, the present month, it would adopt a policy with regard to the use of submarines against all shipping seeking to pass through certain designated areas of the high seas, to which it is clearly my duty to call your attention.

"Let me remind the Congress than on the 18th of April last, in view of the sinking on the 24th of March of the cross-channel steamship *Sussex* by a German submarine, without summons or warning, and the consequent loss of the lives of several citizens of

the United States who were passengers aboard her, this Government addressed a note to the Imperial German Government, in which it made the following declaration:

"'If it is still the purpose of the Imperial German Government to prosecute relentless and indiscriminate warfare against vessels of commerce by the use of submarines, without regard to what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue. Unless the Imperial Government should now immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether.'

"In reply to this declaration the Imperial German Government gave this Government the following assurance:

"'The German Government is prepared to do its utmost to confine the operations of war for the rest of its duration to the fighting forces of the belligerents, thereby also insuring the freedom of the seas, a principle upon which the German Government believes now, as before, to be in agreement with the Government of the United States.

"'The German Government, guided by this idea, notifies the Government of the United States that the German naval forces have received the following orders: "In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared a naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance."

"'But [it added] neutrals can not expect that Germany, forced to fight for her existence, shall, for the sake of neutral interest, restrict the use of an effective weapon if her enemy is permitted to continue to apply at will methods of warfare violating the rules of international law. Such a demand would be incompatible with the character of neutrality, and the German Government is convinced that the Government of the United States does not think of making such a demand, knowing that the Government of the United States has repeatedly declared that it is determined to restore the principle of the freedom of the seas from whatever quarter it has been violated.'

"To this the Government of the United States replied on the 8th of May, accepting, of course, the assurance given, but adding:

"'The Government of the United States feels it necessary to state that it takes it for granted that the Imperial German Government does not intend to imply that the maintenance of its newly announced policy is in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government, notwithstanding the fact that certain passages in the Imperial Government's note of the 4th instant might appear to be susceptible of that construction. In order, however, to avoid any misunderstanding the Government of the United States notifies the Imperial Government that it can

not for a moment entertain, much less discuss, a suggestion that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other Government, affecting the rights of neutrals and noncombatants. Responsibility in such matters is single, not joint; absolute, not relative.'

"To this note of the 8th of May the Imperial German Government made no reply.

"On the 31st of January, the Wednesday of the present week, the German Ambassador handed to the Secretary of State, along with a formal note, a memorandum which contained the following statement:

"'The Imperial Government, therefore, does not doubt that the Government of the United States will understand the situation thus forced upon Germany by the entente allies' brutal methods of war and by their determination to destroy the central powers, and that the Government of the United States will further realize that the now openly disclosed intention of the entente allies gives back to Germany the freedom of action which she reserved in her note addressed to the Government of the United States on May 4, 1916.

"'Under these circumstances Germany will meet the illegal measures of her enemies by forcibly preventing after February 1, 1917, in a zone around Great Britain, France, Italy, and in the Eastern Mediterranean, all navigation, that of neutrals included, from and to England and from and to France, etc. All ships met within the zone will be sunk.'

"I think that you will agree with me that in view of this declaration, which suddenly and without prior intimation of any kind deliberately withdraws the solemn assurance given in the Imperial Government's note of the 4th of May, 1916, this Government has no alternative consistent with the dignity and honor of the United States but to take the course which, in its note of the 18th of April, 1916, it announced that it would take in the event that the German Government did not declare and effect an abandonment of the methods of submarine warfare which it was then employing and to which it now purposes again to resort.

"I have therefore directed the Secretary of State to announce to his excellency the German ambassador that all diplomatic relations between the United States and the German Empire are severed and that the American ambassador at Berlin will immediately be withdrawn, and, in accordance with this decision, to hand to his excellency his passports.

"Notwithstanding this unexpected action of the German Government, this sudden and deplorable renunciation of its assurances given this Government at one of the most critical moments of tension in the relations of the two Governments, I refuse to believe that it is the intention of the German authorities to do in fact what they have warned us they will feel at liberty to do. I can not bring myself to believe that they will indeed pay no regard to the ancient friendship between their people and our own or to the solemn obligations which have been exchanged between them, and destroy American ships and take the lives of American citizens in the willful prosecution of the ruthless naval program they have announced their intention to adopt.

Only actual overt acts on their part can make me believe it even now.

"If this inveterate confidence on my part in the sobriety and prudent foresight of their purpose should unhappily prove unfounded; if American ships and American lives should in fact be sacrificed by their naval commanders in heedless contravention of the just and reasonable understandings of international law and the obvious dictates of humanity, I shall take the liberty of coming again before the Congress to ask that authority be given me to use any means that may be necessary for the protection of our seamen and our people in the prosecution of their peaceful and legitimate errands on the high seas. I can do nothing less. I take it for granted that all neutral Governments will take the same course.

"We do not desire any hostile conflict with the Imperial German Government. We are the sincere friends of the German people and earnestly desire to remain at peace with the Government which speaks for them. We shall not believe that they are hostile to us unless and until we are obliged to believe it, and we purpose nothing more than the reasonable defense of the undoubted rights of our people. We wish to serve no selfish ends. We seek merely to stand true alike in thought and in action to the immemorial principles of our people, which I have sought to express in my address to the Senate only two weeks ago—seek merely to vindicate our right to liberty and justice and an unmolested life. These are the bases of peace, not war. God grant that we may not be challenged to defend them by acts of willful injustice on the part of the Government of Germany."

The dismissal of the German ambassador was couched in the following note:

THE SECRETARY OF STATE TO THE GERMAN AMBASSADOR.

DEPARTMENT OF STATE,
February 3, 1917.

EXCELLENCY: In acknowledging the note, with accompanying memoranda, which you delivered into my hands on the afternoon of January 31, and which announced the purpose of your Government as to the future conduct of submarine warfare, I would direct your attention to the following statements appearing in the correspondence which has passed between the Government of the United States and the Imperial German Government in regard to submarine warfare.

Then follow the quotations used by the President in addressing Congress, including the citations from the memorandum accompanying the German note of January 31, giving notice of unrestricted naval warfare.

In view of this declaration, concludes the State Department note, which withdraws suddenly and without prior intimation the solemn assurance given in the Imperial Government's note of May 4, 1916, this Government has no alternative consistent with the dignity and honor of the United States but to take the course which it explicitly announced in its note of April 18, 1916, it would take in the event that the Imperial Government did not declare and effect an abandon-

ment of the methods of submarine warfare then employed and to which the Imperial Government now purpose again to resort.

The President has therefore directed me to announce to your Excellency that all diplomatic relations between the United States and the German Empire are severed, and that the American ambassador at Berlin will be immediately withdrawn, and in accordance with such announcement to deliver to your Excellency your passports.

I have the honor to be your Excellency's obedient servant.

ROBERT LANSING.

Neutral countries were sounded by the President:

PRESIDENT, NOTIFYING NEUTRALS OF THE BREAK, HOPES THEY "CAN FIND IT POSSIBLE TO TAKE SIMILAR ACTION."

WASHINGTON, *February 4.*

The State Department has sent to American diplomatic representatives in neutral countries the following instructions to announce the break with Germany and suggest that they take similar action:

"You will immediately notify the Government to which you are accredited that the United States, because of the German Government's recent announcement of its intention to renew unrestricted submarine warfare, has no choice but to follow the course laid down in its note of April 18, 1916 (the *Sussex* note).

"It has, therefore, recalled the American ambassador to Berlin and has delivered passports to the German ambassador to the United States.

"Say also that the President is reluctant to believe Germany actually will carry out her threat against neutral commerce, but if it be done the President will ask Congress to authorize use of the national power to protect American citizens engaged in their peaceful and lawful errands on the seas.

"The course taken is, in the President's view, entirely in conformity with the principles he enunciated in his address to the Senate January 12 (the address proposing a world league for peace).

"He believes it will make for the peace of the world if other neutral powers can find it possible to take similar action.

"Report fully and immediately on the reception of this announcement and upon the suggestion as to similar action."

German official attitude toward American reception of her new submarine policy:

ZIMMERMANN HOPES WILSON WILL PREVENT CONFLICT.

BERLIN, *February 6.*

Foreign Secretary Zimmermann gave the following interview to the Overseas News Agency:

"We regret this measure taken by President Wilson all the more since, against all traditions and all international law, we are cut off from all direct communication and regular intercourse with the trans-Atlantic world. We also remember that American diplomats during the last months and years of the war have cared for German

interests, by proxy, in several hostile countries with efficiency and great success.

"The text of the President's message, in the absence of other official documents, has therefore been examined most minutely. Having no real reason for hostility to the United States, remembering the traditional friendship which has existed between the countries practically from the first days of the United States, we naturally appreciate the words of a rather nonhostile character, which, among others of a different character, are found in that message, as transmitted by Reuters.

"In them President Wilson gives assurances that he wishes no 'hostile conflict' with Germany, and I can add that we appreciate this and other paragraphs in the message, joining in this respect with President Wilson's note.

"While we think, to a certain extent, that we can see by what reasons the United States Government was prompted to its present attitude on the other hand, we expect that President Wilson to the same extent may recognize the reason which prompted us to take our decision."

Dr. Karl Helfferich, vice chancellor and minister of the interior, gave the following interview to-day to a Norwegian correspondent:

"We consider submarine warfare to be an effective means of shortening the war and breaking once for all British tyranny on the seas. It is true that neutrals will have to suffer in some respects, but do they not suffer already? You can be sure that the difficulties caused to your country by our submarine war will be little compared with those caused by Great Britain.

"Ask your countrymen by what brutal methods Great Britain coerces Norwegian shipowners to carry contraband, and how with all means she strangles the Norwegian fishing industry as well as paralyzes Norwegian industry by holding back coal.

"We shall do everything to diminish these difficulties. We know that the coal question is most important for you. Notwithstanding the difficulties from which we now suffer in regard to transportation, we shall help you as we can.

"As to the submarine war, there is no way back for us. We shall go on in the way which we have chosen to the end, and we are convinced that later neutrals will be thankful to us."

On the 6th of February the following provision was submitted to the House:

EMERGENCY LEGISLATION.

(*a*) Definition: The word "person" as used in paragraphs (*b*), (*c*), (*d*), (*e*), (*f*) next hereafter shall include any individual trustee, firm, association, company, or corporation. The word "ship" shall include any boat, vessel, and submarine, and any form of aircraft and the parts thereof. The words "war material" shall include arms, armament, ammunition, stores, supplies, and equipment for ships and aeroplanes, and everything required for or in connection with the production thereof. The word "factory" shall include any factory, workshop, engine works, building used for manufacture, assembling, construction, or for any process, and any shipyard or

dockyard. The words "United States" shall include the Canal Zone and all territory and waters, continental and insular, subject to the jurisdiction of the United States.

(*b*) In time of war or of national emergency, to be determined by the President by proclamation or Executive order, the President is hereby authorized and empowered, through the Secretary of the Navy, in addition to all other existing provisions of law and within the limit of amounts appropriated therefor—

(1) To place an order with any person for such ships or war material as he may require and which are of the nature and kind usually produced or capable of being produced by such person. Compliance with all such orders shall be obligatory on any person to whom such order is given, and such order shall take precedence over all other orders and contracts theretofore placed with such person, except orders and contracts of or for the United States. If any person owning, leasing, or operating any factory equipped for the building or production of ships or war material for the Navy shall refuse or fail to give to the United States such preference in the execution of such an order, or shall refuse to build, supply, furnish, or manufacture the kind, quantity, or quality of ships or war material so ordered at such reasonable price as shall be determined by the Secretary of the Navy, the President may take immediate possession of any factory of such person, or of any part thereof, without taking possession of the factory itself, and may use the same at such times and in such manner as he may consider necessary or expedient, and the occupier and every officer and servant of the occupier of the factory, or part thereof, shall obey his directions.

(2) To modify or cancel any existing contract for the building, production, or purchase of ships or war material; and if any contractor shall refuse or fail to comply with the contract as so modified the President may take immediate possession of any factory of such contractor, or any part thereof, without taking possession of the factory itself, and may use the same at such times and in such manner as he may consider necessary or expedient, and the occupier and every officer and servant of the occupier of such factory, or part thereof, shall obey his directions.

(3) To require the owner or occupier of any factory in which ships or war material are built or produced to place at the disposal of the United States the whole or any part of the output of such factory, and to deliver such output or parts thereof in such quantities and at such times as may be specified in the order, at such reasonable price as shall be determined by the Secretary of the Navy.

(4) To requisition and take over for use or operation by the Government the factory, or any part thereof without taking possession of the factory itself, whether the United States has or has not any contract or agreement with the owner or occupier of such factory.

(5) To waive all provisions of law restricting the hours of labor of persons in the employ of the United States and of persons in the employ of contractors therewith when employed on work in connection with such ships or war material, and to waive all other restrictions and limitations affecting the labor of such persons, with a view to increase output or prevent delay.

(6) No person shall, directly or indirectly, induce any person employed in any factory and engaged on work for the United States to leave his employment or to cease such work.

(d) In time of actual war the President is hereby authorized and empowered, through the Secretary of the Navy, to draft into the naval service of the United States and to place under naval control any or all of the officers, agents, or employees of any factory equipped for the building or production of ships or war material for the Navy, and said officers, agents, and employees shall be thenceforth considered as members of the Naval Establishment of the United States, subject to all the conditions and restrictions imposed by the articles for the government of the Navy. The draft of the officers, agents, and employees of said factories shall be accomplished upon proclamation by the President requiring all such officers, agents, and employees of any factory therein named to submit themselves to draft and directing such officer or officers of the Naval Establishment as he may select for the purpose to prepare either by designation or by lot, as may be most expedient, a roster or rosters of the individual officers, agents, and employees so to be drafted. Upon the making of such roster or rosters notice shall be given to each person so enrolled of the place where and the time when he shall appear and enter upon his service; and any persons who shall in any manner willfully evade or resist such notice or shall fail to present himself for duty at the time and place named therein or within such time thereafter as may be necessary to accomplish his journey to the place appointed by the most expeditious route, shall be punished as hereinafter provided. And any officers, agents, or employees of such factory who may be drafted into the Naval Establishment of the United States hereunder shall during their service for the United States in the manufacture or production of ships or war materials receive for their services so rendered such compensation as they were theretofore accustomed to receive for similar services.

(e) Any person who violates or fails to comply with any provision of paragraphs (b), (c), (d), or any order given, direction, regulation, or restriction made or imposed thereunder, shall be subject to a fine of not more than $10,000 or to imprisonment for not more than two years, or both.

(f) Whenever the United States shall cancel or modify any contract, make use of, assume, occupy, requisition, or take over any factory or part thereof, or any ships or water material, in accordance with the provisions of the foregoing paragraphs (b), (c), (d), it shall make just compensation therefor, and in default of agreement upon the damages, compensation, price, or rental due by reason of any action hereunder the person to whom the same is due shall be entitled to sue the United States to recover his fair and reasonable damages in the manner provided for by section 24, paragraph 20, and section 145 of the Judicial Code.

Submarine activity since February 1, as reported for the five days February 1 to 6:

45 VESSELS, WITH A TOTAL TONNAGE OF 86,304, HAVE BEEN DESTROYED IN WAR ZONE FIRST FIVE DAYS OF FEBRUARY.

A compilation of results of first five days of the German submarine campaign since February 1, the day the new blockade order went into effect, follows:[1]

Reported sunk:	Tonnage.
Port Adelaide, British	8,181
Bravalla, Swedish	1,553
Belford, British	1,955
Warley Pickering, British	4,196
Floridian, British	4,777
Wartenfels, British	4,511
Cerea, Russian	3,512
Palmleaf, British	3,206
Cliftonian, British	4,303
Thor II, Norwegian	2,144
Tamara, Norwegian	453
Rizel, Norwegian	1,771
Wasdall, Norwegian	1,856
Songdal, Norwegian	2,089
Total tonnage	44,427
Previously reported sunk:	
Eavestone, British	1,850
Isle of Arran, British	1,918
Hurstwood, British	1,918
Lars Kruse, Danish	1,460
Garnet Hill, Russian	2,272
Housatonic, American	2,022
Butron, Spanish	2,434
Elekon, Greek (tonnage as estimated)	1,500
Helicot, Greek (tonnage as estimated)	1,500
Heimland I, Norwegian	505
Gamma, Dutch	2,198
Ravenabourne, British (tonnage as estimated)	1,500
Jerv, Norwegian	1,112
Hecla, Norwegian	524
Algorta, Spanish	2,116
Portia, Norwegian	1,127
Essonile, British	589
Violet, British	150
Marcelle, Belgian	219
Trevean, British	2,081
Euphrates, Belgian	2,809
Dunde, British	2,278
Ida, British	500
Epsilon, Dutch	3,211
Dosde Noviembre, Spanish (tonnage as estimated)	1,500
Ymer, Norwegian	1,123
Two trawlers, British (tonnage as estimated)	1,000
Three smacks, British	150
Total tonnage previously	41,877
Grand total since Feb. 1	86,304

Action of the Senate February 7, indorsing the President's position in breaking off diplomatic relations:

By a vote of 78 to 5 the Senate late yesterday afternoon recorded its emphatic approval of the President's severance of diplomatic relations with Germany. This action came after six hours of debate.

[1] Up to Apr. 3 a total of 686 neutral vessels had been destroyed and 79 others which were attacked escaped. Of those sunk, 410 were Norwegian, 111 swedish, 61 Dutch, 50 Greek, 33 Spanish, 19 American, 1 Peruvian, and 1 Argentine.

A number of Senators expressed the view that the resolution was unnecessary, but declared they would vote for it so there might be no suspicion in Europe that the Senate and the American people were not solidly behind the President.

TEXT OF RESOLUTION.

The text of the resolution follows:

"Whereas the President has, for the reasons stated in his address delivered to the Congress in joint session on February 3, 1917, severed diplomatic relations with the Imperial German Government by the recall of the American ambassador at Berlin and by handling his passports to the German ambassador at Washington; and

"Whereas, notwithstanding this severance of diplomatic intercourse, the President has expressed his desire to avoid conflict with the Imperial German Government; and

ACTION IS APPROVED.

"Whereas the President declared in this said address that if in his judgment an occasion should arise for further action in the premises on the part of the Government of the United States he would submit the matter to the Congress and ask the authority of Congress to use such measures as he might deem necessary for protection of American seamen and people in the prosecution of their peaceful and legitimate errands on the high seas: Therefore be it

"*Resolved*, That the Senate approves the action taken by the President as set forth in his address delivered before the joint session of Congress, as stated above."

Neutrals decline to follow the American Government. Diplomats and press of small countries point to peril for them. They still fear the power of Germany. Dutch comment that the United States is far from war, with ample food and war material:

LONDON, *February 6.*

The attitude of European nautrals in regard to the American suggestion that they break off diplomatic relations with Germany is being awaited with keen interest, but a canvass of the diplomatic representatives of these nations showed there was a general disposition to take time for consideration of the suggestion. Notwithstanding reports that Spain has taken action, the Spanish ambassador, Señor Merry del Val, who is being kept advised by his Government, had not received word up to noon to-day of any measures taken by his Government. The view prevailed in Spanish quarters that several days would be taken up with consideration of the various questions involved.

There are some indications already that Spain does not contemplate a rupture. They include the taking up of part of the Belgian relief work which the American rupture with Germany is deranging.

At the Swiss Legation it was said that although a preliminary note, in the nature of an inquiry, has been sent to Washington, it is not Switzerland's final reply. It has not been expected by entente

diplomats that Switzerland would take action which might involve her in the war, inasmuch as her frontiers would be exposed on three sides. From a military standpoint such action by Switzerland, it is pointed out, would not be wholly advantageous for the entente, and particularly for France, as it probably would mean that Germany would menace the unfortified French frontier adjoining Switzerland.

At the Scandinavian legations the general view, in the absence of definite advices, was that the exposed Baltic frontages of these countries made their situation much more dangerous than that of America, which would tend to restrain them from any decisive action.

As a result of this attitude on the part of the various European neutrals, the best-informed entente diplomats are inclined to believe that the American move will not be followed by these nations, although it is expected to exert strong moral influence on them.

HOLLAND TO TAKE TIME TO CONSIDER SITUATION—NO REASON AT THIS MOMENT FOR SPECIAL ANXIETY, THE PREMIER TELLS PARLIAMENT.

THE HAGUE, *February 6.*

Premier Cort van der Linden made the following statement in the Second Chamber of the Dutch Parliament to-day:

"Serious events occupy the Government's attention. At the present moment it is impossible to give information regarding them, but the Government will not neglect to give the chamber information as soon as expedient. There is no reason at this moment for special

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[Special cable to the New York Times—Dispatch to the London Times.]

AMSTERDAM, *February 6.*

Unquestionably President Wilson's words echo from the hearts of the freedom-loving Dutch, but it must not be forgotten that their position is one of extreme difficulty. Exposed as they are on the eastern frontier to an invasion from German troops and menaced with a complete stoppage of supplies by German submarines, they not unnaturally hesitate to take any steps calculated to expedite their annihilation at German hands.

President Wilson's words respecting the course other neutrals are likely to follow is widely reproduced here, where sympathy is entertained for the attitude adopted by the United States, though the difference in circumstances of that country and Holland are pointed out generally in the press of various shades of opinion from the Socialist Volk to the Catholic Tyd.

The Handelsblad intimates that the Dutch Government's previous record does not encourage the supposition that it will proceed to extreme lengths in the event of complications arising from the sinking of Dutch vessels. America is not exposed to the perils of immediate invasion by an enemy who has proved himself absolutely devoid of the bowels of mercy, but Holland, which has already suffered much, is prepared to suffer a great deal more rather than incur the fate of Louvain, Dinant, and Liege. She does not want to give the Kaiser the chance to proclaim to the world, "My heart bleeds for the poor Dutch."

PRESIDENT WILSON CRITICIZED.

[Special cable to the New York Times.]

THE HAGUE, *February 6.*

Commenting on the breaking off of diplomatic relations between the United States and Germany, the Nieuwe Rotterdamsche Courant says:

"We are somewhat surprised that President Wilson allows himself to meddle in the affairs of other neutral states in suggesting that they follow America's example. There is every possibility that our government, which has to meet the exigencies of our country, sees things in a different light than the American Government does.

"America is a country well provided with iron, steel, grain, fats, and other food products. America does not border on belligerent countries. On the contrary, she is separated by a wide ocean, almost unattainable by the Central Powers. In American ports are countless German vessels, among them the largest and most magnificent of the German merchant fleet. All these, in the eventuality of war, could fall booty to America. Whereas America is self-supplying, Holland must rely on overseas and imports from Germany.

"But our overseas imports have been reduced to a minimum by the allies' policy. Germany delivers practically nothing. We have been prevented from laying in supplies for a rainy day. There is a scarcity of coal, grain, most food products, and fats. We have not enough iron and steel, and we are neighbors of Germany. President Wilson can well set an example without risking much. These are only a few points of the difference by which it can be seen that our international position is quite other than that of America.

"Our Government has not been sitting still during the last week, but has been in touch with other neutrals whose position is more similar to ours than is America's. Mr. Wilson's step has certainly awakened much feeling here. There are many who greet it as the dawning of a new day."

The Nieuwe Courant says:

"The neutrals have been robbed of their natural leader in peace action. The small nations of Europe that have kept out of the world-wide madness have been thrown on their own resources. Both for the future and present the position of the neutrals has grown decidedly worse.

"We need have no illusions about criticizing the 'seizure' of German ships in American ports. Confiscating vessels must be regarded as an action of war. Therefore we can not believe in this interpretation. It is perhaps only with the possibility of war in sight that special precautionary measures are taken. That the ships are still in German possession can not be doubted.

"The President does not intend to let American citizens be dictated to as to which ships to travel on, nor American ships as to which route they may follow. Mr. Wilson demands the right for them to travel peacefully on the free seas, and demands an acknowledgment of this right from Germany. American correspondents retain the right to remain in Germany, according to the Prussian-American treaty of 1798."

The Nieuwes Van Den Dag says:

"In any case the fact remains that if America goes to war the magnificent ships which are the pride of Germany's merchant fleet are lost for Germany. They would surely be most welcome as an increase to the entente's merchant fleet, and Germany would then be able to torpedo her own fine ships."

HOLLAND STOPS TRAFFIC WITH ENGLAND.

LONDON, *February 6.*

The port authorities of Holland have been notified, according to a Reuter dispatch from The Hague, that until further notice Dutch steamers will not be allowed to proceed to England.

The Nieuwe Rotterdamsche Courant says that several shipowners have received the following telegram from The Hague: "The naval staff announces that the German Admiralty has informed them that Dutch ships which had already left North America on February 1 for English ports will be allowed to pass thereto but can not leave those ports without risk." The Courant adds that as the telegram was not clear some of the shipowners have gone to The Hague to seek an explanation.

The Dutch Legation in Paris issued the following public notice to-day:

"All Dutch subjects having military obligations to fulfill, whether in the militia reserve or territorials, must present themselves without delay to the Dutch Consulate."

FEAR WILSON'S PEACE VIEWS—SOME RUSSIANS THINK HIS INFLUENCE IN NEGOTIATIONS WILL NOT BE WELCOME.

[Special cable to the New York Times. Dispatch to the London Daily Chronicle.]

PETROGRAD, *February 6.*

Russian opinion was very agreeably surprised by the rupture between America and Germany. The general impression is one of unqualified pleasure, and all speculations as to the possible consequences of the German submarine campaign are completely obscured by the moral effect of Wilson's act.

Numbers of statesmen, including the minister for foreign affairs, M. Pokrovsky, M. Sazonoff, and Count Kokovtsoff, have expressed their views on the probable results of American intervention. For the most part they confine themselves to an estimate of the measures by which America could actively help the allies in the event of a declaration of war. Pokrovsky declines to forecast the future and dwells on the moral effect of the rupture of diplomatic relations. I am bound to add, however, that in some quarters a certain anxiety is expressed lest America's participation in the peace negotiations should have the effect of rather tying the hands of the entente powers in the matter of the reconstruction of Europe. This attitude must be regarded as the result of the impression left on many minds by Wilson's peace notes.

Among the comments the most interesting are those which attempt to give a national estimate of Germany's desperate action. Deputy Rodicheff, for instance, considers that the German declaration of merciless submarine warfare was either a gesture of insanity or was an intentional provocation of America in the hope of a speedy conclusion of peace. The Novoe Vremya develops this view more fully. The German Government, it assumes, was driven to despair, but for dynastic reasons dared not give up the struggle and accept the allies' terms. Its declaration of merciless submarining, the paper says, was directly calculated to provoke action on the part of America, so that with the whole world made hostile it could turn to its people and demonstrate the physical and moral impossibility of continuing the war.

TO INSURE FOREIGN SHIPS—SWEDEN ADOPTING MEASURES TO ENCOURAGE IMPORTS.

STOCKHOLM, *February 6.*

The first step for the encouragement of imports has been taken by the Riksdag by the adoption of a bill materially extending the powers of the State Insurance Commission. This commission was empowered, under the law of July, 1915, to insure Swedish vessels only for an amount not exceeding 80 per cent of their value, and in no case exceeding 2,000,000 crowns for steamers and 200,000 crowns for sailing vessels, at a premium rate not exceeding 7 per cent.

The new measure permits the insurance of foreign vessels as well as Swedish, and the commission may insure for the full value of the vessel and cargo. No maximum is set. The new law removes the limitation on the premium rate and authorizes the commission also to issue accident policies for masters and seamen.

The shipping companies are still waiting to see what the next few days will bring forth.

The railway authorities have decided to withdraw, beginning February 10, passenger trains having runs aggregating 13,000 kilometers daily.

ATHENS GREATLY EXCITED—SOME PAPERS SEE IN OUR MOVE CUTTING OFF OF THEIR FOOD SUPPLIES.

[Special cable to the New York Times. Dispatch to the London Daily Chronicle.]

ATHENS, *Monday, February 5.*

The rupture of diplomatic relations between the United States and Germany, reported here at a late hour last night from a German source, created great excitement. All papers comment on the situation at length this morning; the opinions vary a good deal. Embros thinks the rupture would not affect the provisioning of Greece, as the danger for Greek vessels would be the same after such an event as they are now. The Nea Himera, on the other hand, believes the consequences for Greece will be very disagreeable, as the food supplies for the country come mainly from the United States, and, in addition, all emigration will cease.

The Greek press has been placing great faith in Wilson's ability to bring about peace, and all newspapers point out with regret that

his efforts have come to an end with the breaking of diplomatic relations. Chronos, a military organ, argues that the rupture will increase the prestige of the central empires, because they stand forth as a terrible and invincible colossus, standing up against their adversaries, greatly superior in force. On this point Embros says the entry of the United States into the war will be of great moral value to the entente, and that it is not impossible that other neutral states, especially Spain, will follow the example.

ROME LOOKS TO NEUTRALS—HOPES OTHERS WILL FOLLOW THE EXAMPLE OF THE UNITED STATES.

[Special cable to the New York Times.]

ROME, *February 6.*

Many citizens of neutral countries living here, especially Spaniards, Swiss, and South Americans, strongly sympathize with President Wilson's attitude and are using all their influence to induce their respective countries to follow the American lead, which is expected to make a league of neutral states master of the situation.

The Tribune says: "The present moment furnishes an excellent chance for the neutrals to use their influence not to enlarge the conflict but to bring to reason the German Kaiser and his generals and statesmen."

ROME, *February 5 (via Paris, delayed).*

All the newspapers comment extensively on the German-American crisis and express the hope that neutrals without exception will associate themselves with the United States. The attitude of America has influenced subscriptions to the fourth war loan, which opened to-day, it being felt that intervention of the United States would hasten the conclusion of the war.

Ambassador Page has received many letters from soldiers at the front, some of them written in English by Italians who formerly lived in America, expressing approval of the attitude of Washington.

BARS SHIPS FROM SPAIN—BUT GERMANY WILL ALLOW THOSE ON WAY TO ENGLAND TO REACH THERE.

LONDON, *February 6.*

Reuter's Madrid correspondent cables that the note of the Spanish Government to the central powers will be delivered to-day and published in Madrid to-morrow.

The Correspondencia de Espana announces that Germany has consented to allow Spanish fruit ships now on their way to England with safe conducts to reach their destinations, but can not allow them to return to Spain.

The minister of marine has instructed the authorities at all ports to allow no ship to clear unless provided with proper appliances for saving life in the event the vessel is sunk.

The cruiser *Catalonia* is guarding the entrance to Las Palmas Bay to prevent the German and Austrian ships moored there from leaving. No vessel is allowed to enter or leave port between sunset and sunrise.

DENMARK TO SAY NO—WILL TELL PRESIDENT POSITION OF AMERICA IS DIFFERENT, IT IS SAID.

[Special cable to the New York Times.]

COPENHAGEN, *February 6.*

According to an authentic report, the Danish Government's reply to President Wilson's note will say that there is so great a difference between the position of the United States and that of Denmark that no comparison is possible, and that the three Scandinavian Governments are consulting together in Stockholm on the basis of international law about their attitude to the new German blockade.

SWISS ANSWER NEGATIVE—COUNCIL'S REPLY TO PRESIDENT WILSON WIRED TO WASHINGTON.

LONDON, *February 6.*

Switzerland, says a Berne dispatch given out by the Wireless Press to-day, has sent a negative reply to President Wilson's invitation to follow the lead of the United States in breaking off diplomatic relations with Germany.

GENEVA, *February 6.*

President Wilson's special note to the Swiss Government inviting it to join the United States in action regarding Germany was discussed at length at an extraordinary meeting of the Federal Council. The text of the Swiss reply has been telegraphed to Washington and will be published here as soon as received by President Wilson. The Swiss Telegraphic Agency says that the report that Switzerland will take charge of German and Austrian interests in the United States is premature, although the Federal Council will probably accept the task.

Commenting on President Wilson's communication to Switzerland, the Journal de Genève says:

"Switzerland is bound by engagements differing from those of America, whose neutrality does not depend upon formal treaties. In these circumstances it can not be admitted that Switzerland can follow President Wilson and, without solidarity with other neutrals and without direct provocation, break either her relations with Germany or engagements entered into by Switzerland during the war, or abandon the multiple international interests which represent at present the clearly expressed will of the Swiss people.

"That, however, is not a reason to prevent Switzerland from protesting strongly to Berlin and Vienna against measures which threaten neutral commerce, and there is no doubt that the Federal Council will make its voice heard."

The Neue Zuricher Zeitung says that President Wilson's action was the only solution to the situation caused by the German note. It remarks that the fact that execution would follow the German threat within a few hours left the United States no time to protest. The Zeitung regards the situation as most serious and looks for a declaration from President Wilson announcing reprisals that he will resort to in the event of Germany putting her threats into execution.

ARMED NEUTRALITY BEFORE CONGRESS.

PRESIDENT WILSON'S ADDRESS.

Following is the text of the address delivered by President Wilson to Congress February 26, 1917:

GENTLEMEN OF THE CONGRESS: I have again asked the privilege of addressing you, because we are moving through critical times, during which it seems to me to be my duty to keep in close touch with the Houses of Congress so that neither counsel nor action shall run at cross-purposes between us.

On the 3d of February I officially informed you of the sudden and unexpected action of the Imperial German Government in declaring its intention to disregard the promises it had made to this Government in April last and undertake immediate submarine operations against all commerce, whether of belligerents or of neutrals, that should seek to approach Great Britain and Ireland, the Atlantic coasts of Europe, or the harbors of the eastern Mediterranean, and to conduct those operations without regard to the established restrictions of international practice, without regard to any considerations of humanity even which might interfere with their object.

AMERICAN COMMERCE SUFFERS, BUT OTHER NEUTRALS FARE WORSE.

That policy was forthwith put into practice. It has now been in active exhibition for nearly four weeks. Its practical results are not fully disclosed. The commerce of other neutral nations is suffering severely, but not, perhaps, very much more severely than it was already suffering before the 1st of February, when the new policy of the Imperial Government was put into operation.

We have asked the cooperation of the other neutral Governments to prevent these depredations, but I fear none of them has thought it wise to join us in any common course of action. Our own commerce has suffered, is suffering, rather in apprehension than in fact, rather because so many of our ships are timidly keeping to their home ports than because American ships have been sunk.

Two American vessels have been sunk, the *Housatonic* and the *Lyman M. Law*. The case of the *Housatonic*, which was carrying foodstuffs consigned to a London firm, was essentially like the case of the *Frye*, in which, it will be recalled, the German Government admitted its liability for damages, and the lives of the crew, as in the case of the *Frye*, were safeguarded with reasonable care.

CONDEMNS RUTHLESS SINKING OF SCHOONER "LYMAN M. LAW."

The case of the *Law*, which was carrying lemon-box staves to Palermo, disclosed a ruthlessness of method which deserves grave condemnation, but was accompanied by no circumstances which might not have been expected at any time in connection with the use of the submarine against merchantmen as the German Government has used it.

In sum, therefore, the situation we find ourselves in with regard to the actual conduct of the German submarine warfare against commerce and its effect upon our own ships and people is substantially the same that it was when I addressed you on the 3d of February, except for the tying up of our shipping in our own ports because of the unwillingness of our shipowners to risk their vessels at sea without insurance or adequate protection, and the very serious congestion of our commerce which has resulted, a congestion which is growing rapidly more and more serious every day.

This in itself might presently accomplish, in effect, what the new German submarine orders were meant to accomplish, so far as we are concerned. We can only say, therefore, that the overt act which I have ventured to hope the German commanders would in fact avoid has not occurred.

INTENTION TO COMMIT OVERT ACT IS APPARENT.

But while this is happily true, it must be admitted that there have been certain additional indications and expressions of purpose on the part of the German press and the German authorities which have increased rather than lessened the impression that if our ships and our people are spared it will be because of fortunate circumstances or because the commanders of the German submarines which they may happen to encounter exercise an unexpected discretion and restraint, rather than because of the instructions under which those commanders are acting.

It would be foolish to deny that the situation is fraught with the gravest possibilities and dangers. No thoughtful man can fail to see that the necessity for definite action may come at any time, if we are in fact, and not in word merely, to defend our elementary rights as a neutral nation. It would be most imprudent to be unprepared.

I can not in such circumstances be unmindful of the fact that the expiration of the term of the present Congress is immediately at hand by constitutional limitation and that it would in all likelihood require an unusual length of time to assemble and organize the Congress which is to succeed it.

MAY NEED THE AUTHORITY TO ACT AT ANY MOMENT.

I feel that I ought, in view of that fact, to obtain from you full and immediate assurance of the authority which I may need at any moment to exercise. No doubt I already possess that authority without special warrant of law by the plain implication of my constitutional duties and powers, but I prefer in the present circumstances not to act upon general implication. I wish to feel that the authority and the power of the Congress are behind me in whatever it may become necessary for me to do. We are jointly the servants of the people and must act together and in their spirit, so far as we can divine and interpret it.

No one doubts what it is our duty to do. We must defend our commerce and the lives of our people in the midst of the present trying circumstances with discretion, but with clear and steadfast purpose. Only the method and the extent remain to be chosen upon the occasion, if occasion should indeed arise.

Since it has unhappily proved impossible to safeguard our neutral rights by diplomatic means against the unwarranted infringements they are suffering at the hands of Germany, there may be no recourse but to armed neutrality, which we shall know how to maintain and for which there is abundant American precedent.

NOT CONTEMPLATING WAR, BUT WANTS TO BE READY.

It is devoutly to be hoped that it will not be necessary to put armed forces anywhere into action. The American people do not desire it, and our desire is not different from theirs. I am sure that they will understand the spirit in which I am now acting, the purpose I hold nearest my heart, and would wish to exhibit in everything I do. I am anxious that the people of the nations at war also should understand and not mistrust us.

I hope that I need give no further proofs and assurances than I have already given throughout nearly three years of anxious patience that I am the friend of peace, and mean to preserve it for America so long as I am able.

I am not now proposing or contemplating war, or any steps that lead to it. I merely request that you will accord me by your own vote and definite bestowal the means and the authority to safeguard in practice the right of a great people, who are at peace and who are desirous of exercising none but the rights of peace, to follow the pursuit of peace in quietness and good will—rights recognized time out of mind by all the civilized nations of the world.

No course of my choosing or of theirs will lead to war. War can come only by the willful acts and aggressions of others.

ASKS POWER TO ARM SHIPS AND TO USE OTHER MEANS.

You will understand why I can make no definite proposals or forecasts of action now and must ask for your supporting authority in the most general terms. The form in which action may become necessary can not yet be foreseen. I believe that the people will be willing to trust me to act with restraint, with prudence, and in the true spirit of amity and good faith that they have themselves displayed throughout these trying months; and it is in that belief that I request that you will authorize me to supply our merchant ships with defensive arms should that become necessary, and with the means of using them, and to employ any other instrumentalities or methods that may be necessary and adequate to protect our ships and our people in their legitimate and peaceful pursuits of the seas.

I request also that you will grant me at the same time, along with the powers I ask, a sufficient credit to enable me to provide adequate means of protection where they are lacking, including adequate insurance against the present war risks.

I have spoken of our commerce and of the legitimate errands of our people on the seas, but you will not be misled as to my main thought, the thought that lies beneath these phrases and gives them dignity and weight.

CIVILIZATION AT STAKE IN ATTACK ON HUMAN RIGHTS.

It is not of material interest merely that we are thinking. It is, rather, of fundamental human rights, chief of all the right of life itself. I am thinking not only of the rights of Americans to go and come about their proper business by way of the sea, but also of something much deeper, much more fundamental than that. I am thinking of those rights of humanity without which there is no civilization. My theme is of those great principles of compassion and of protection which mankind has sought to throw about human lives—the lives of noncombatants, the lives of men who are peacefully at work keeping the industrial processes of the world quick and vital, the lives of women and children, and of those who supply the labor which ministers to their sustenance.

We are speaking of no selfish material rights, but of rights which our hearts support, and whose foundation is that righteous passion for justice upon which all law, all structures alike of family, of state, and of mankind must rest, and upon the ultimate base of our existence and our liberty. I can not imagine any man with American principles at his heart hesitating to defend these things.

NOTE.—The Sixty-fifth Congress was called to meet in special session April 2, when the President addressed it on the existence of a state of war. The Senate passed the resolution on the 3d and the House on the 5th and the President signed it on the 6th. The President's address, the war resolution, and the proclamations are found at the close of part 2.

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THE PROBLEMS OF NEUTRALITY WHEN THE WORLD IS AT WAR

A HISTORY

OF OUR RELATIONS WITH GERMANY AND GREAT BRITAIN AS DETAILED IN THE DOCUMENTS THAT PASSED BETWEEN THE UNITED STATES AND THE TWO GREAT BELLIGERENT POWERS

BY

S. D. FESS

(IN TWO PARTS)

PART 2

RESTRAINTS OF TRADE CONTROVERSY

PRESENTED BY MR. FOSTER

WASHINGTON
GOVERNMENT PRINTING OFFICE
1917

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PROCLAMATION OF PRESIDENT WILSON FOR DAY OF PRAYER.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas great nations of the world have taken up arms against one another and war now draws millions of men into battle whom the counsel of statesmen have not been able to save from the terrible sacrifice;

And whereas in this as in all things it is our privilege and duty to seek counsel and succor of Almighty God, humbling ourselves before Him, confessing our weakness and our lack of any wisdom equal to these things;

And whereas it is the especial wish and longing of the people of the United States, in prayer and counsel and all friendliness, to serve the cause of peace:

Therefore, I, Woodrow Wilson, President of the United States of America, do designate Sunday, the 4th day of October next, a day of prayer and supplication and do request all God-fearing persons to repair on that day to their places of worship there to unite their petitions to Almighty God that, overruling the counsel of men, setting straight the things they can not govern or alter, taking pity on the nations now in the throes of conflict, in His mercy and goodness, showing a way where men can see none, He vouchsafe His children healing peace again and restore once more that concord among men and nations without which there can be neither happiness nor true frendship nor any wholesome fruit of toil or thought in the world; praying also to this end that He forgive us our sins, our ignorance of His holy will, our willfulness and many errors, and lead us in the paths of obedience to places of vision and to thoughts and counsels that purge and make wise.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this eighth day of September, in the year of our Lord one thousand nine hundred and fourteen, and of the independence of the United States of America the one hundred and thirty-ninth.

[SEAL.] WOODROW WILSON.

By the President:

WILLIAM JENNINGS BRYAN,

Secretary of State.

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THE PROBLEMS OF NEUTRALITY WHEN THE WORLD IS AT WAR AS TOLD IN DOCUMENTS.

OUR CONTROVERSY WITH GREAT BRITAIN.

OUR DIPLOMATIC STRUGGLE FOR THE FREEDOM OF THE SEAS AS REVEALED IN OUR CONTROVERSY WITH GREAT BRITAIN.

The rights of a neutral country in times of war are invariably invaded by belligerents whose incursions, oblivious of international practices, approach the limit where endurance breaks down. This is always placed upon the ground of actual necessity and such necessity as the violator decrees.

To establish rules of the sea for both belligerent and neutral to observe, attempts have been made by groups of nations to agree upon a code.

Such was the Declaration of Paris in 1856, coming at the close of the Crimean War, in which Russia, Turkey, England, and France were interested. This famous agreement which has stood as the law of the rights of neutrals for 60 years was as follows:

ARTICLE 2.

The neutral flag covers enemy's goods, with the exception of contraband

ARTICLE 3.

Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag.

ARTICLE 4.

Blockades in order to be binding must be effective; that is to say, maintained by a force sufficient really to prevent access to the coasts of the enemy.

The chief defender of the neutrals' rights has been Great Britain, primarily because the sea is her chief highway of commerce. Her endeavors have been as a neutral to keep open the lanes of trade. One of the most stubborn questions was that of contraband.

In 1898, when she was a belligerent, then in the Boer War, she took the following position:

Foodstuffs, though having a hostile destination, can be considered as contraband of war only if they are for the enemy's forces; it is not sufficient that they are capable of being so used, it must be shown that this was in fact their destination at the time of their seizure.

The most important and widely heralded announcement of naval operations touching the rights of neutrals and privileges of belligerents was the famous Hague pronouncements of 1907, in which 46 nations were represented, including all the sea powers. It is interesting to note Britain's position on the question of contraband as embraced in Grey's instructions to her delegates:

His Majesty's Government recognize to the full the desirability of freeing neutral commerce to the utmost extent possible from interference by belligerent powers, and they are ready and willing for their part, in lieu of endeavoring to frame new and more satisfactory rules for the prevention of contraband trade in the future, to abandon the principle of contraband of war altogether, thus allowing the oversea trade in neutral vessels between belligerents on the one hand and neutrals on the other to continue during war without any restriction, subject only to its exclusion by blockade from an enemy's port. They are convinced that not only the interest of Great Britain but the common interest of all nations will be found, on an unbiased examination of the subject, to be served by the adoption of the course suggested.

The recommendation here was made that the delegates to The Hague convention use their power to induce the convention to abolish contraband.

In the event of the proposal not being favorably received, an endeavor should be made to frame a list of the articles that are to be regarded as contraband. Your efforts should then be directed to restricting that definition within the narrowest possible limits and upon lines which have the point of practical extinction as their ultimate aim.

Continuing the instructions of Grey:

If a definite list of contraband can not be secured, you should support and, if necessary, propose regulations intended to insure that nations shall publish during peace the list of articles they will regard as contraband during war, and that no change shall be made in the list on the outbreak of or during hostilities.

I here insert the findings of the conference touching the points of interest to us as a neutral power, insisting upon neutral rights upon the sea.

CHAPTER I.—POSTAL CORRESPONDENCE.

ARTICLE 1.

The postal correspondence of neutrals or belligerents, whatever its official or private character may be, found on the high seas on board a neutral or enemy ship is inviolable. If the ship is detained the correspondence is forwarded by the captor with the least possible delay.

The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for or proceeding from a blockaded port.

ARTICLE 2.

The inviolability of postal correspondence does not exempt a neutral mail ship from the laws and customs of maritime war as to neutral merchant ships in general. The ship, however, may not be searched except when absolutely necessary, and then only with as much consideration and expedition as possible.

CHAPTER II.—THE EXEMPTION FROM CAPTURE OF CERTAIN VESSELS.

ARTICLE 3.

Vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo.

They cease to be exempt as soon as they take any part whatever in hostilities.

The contracting powers agree not to take advantage of the harmless character of the said vessels in order to use them for military purposes while preserving their peaceful appearance.

ARTICLE 4.

Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture.

CHAPTER III.—REGULATIONS REGARDING THE CREWS OF ENEMY MERCHANT SHIP CAPTURED BY A BELLIGERENT.

ARTICLE 5.

When an enemy merchant ship is captured by a belligerent, such of its crew as are nationals of a neutral State are not made prisoners of war.

The same rule applies in the case of the captain and officers likewise nationals of a neutral State if they promise formally in writing not to serve on an enemy ship while the war lasts.

ARTICLE 6.

The captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing not to undertake, while hostilities last, any service connected with the operations of the war.

ARTICLE 7.

The names of the persons retaining their liberty under the conditions laid down in article 5, paragraph 2, and in article 6, are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.

ARTICLE 8.

The provisions of the three preceding articles do not apply to ships taking part in the hostilities.

CHAPTER IV.—FINAL PROVISIONS.

ARTICLE 9.

The provisions of the present convention do not apply except between contracting powers, and then only if all the belligerents are parties to the convention.

ARTICLE 10.

The present convention shall be ratified as soon as possible.

The ratification shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a procès verbal signed by the representatives of the powers taking part therein and by the Netherlands minister for foreign affairs.

Subsequent deposits of ratification shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the procès verbal relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the powers invited to the second peace conference, as well as to the other powers which have adhered to the convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE 11.

Nonsignatory powers may adhere to the present convention.

The power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall at once transmit to all the other powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE 12.

The present convention shall come into force in the case of the powers which were a party to the first deposit of ratification 60 days after the procès verbal of that deposit, and in the case of the powers which ratify subsequently or which adhere 60 days after the notification of their ratification has been received by the Netherland Government.

ARTICLE 13.

In the event of one of the contracting powers wishing to denounce the present convention, the denunciation shall be notified in writing to the Netherlands Government, which shall at once communicate a duly certified copy of the notification to all the other powers, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying power and one year after the notification has reached the Netherlands Government.

ARTICLE 14.

A register kept by the Netherlands ministry for foreign affairs shall give the date of the deposit of ratifications made in virtue of article 10, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (art. 11, par. 2) or of denunciation (art. 13, par. 1) have been received.

Each contracting power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the plenipotentiaries have appended their signatures to the present convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherlands Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the powers invited to the second peace conference.

[Here follows signatures.]

RATIFICATIONS, ADHESIONS, AND RESERVATIONS.

The foregoing convention was ratified by the following signatory powers on the dates indicated:

Austria-Hungary, November 27, 1909.
Belgium, August 8, 1910.
Brazil, January 5, 1914.
Denmark, November 27, 1909.
France, October 7, 1910.
Germany, November 27, 1909.
Great Britain, November 27, 1909.
Guatemala, March 15, 1911.
Haiti, February 2, 1910.
Japan, December 13, 1911.
Luxemburg, September 5, 1912.
Mexico, November 27, 1909.
Netherlands, November 27, 1909.
Norway, September 19, 1910.
Panama, September 11, 1911.
Portugal, April 13, 1911.
Roumania, March 1, 1912.
Salvador, November 27, 1909.
Siam, March 12, 1910.
Spain, March 18, 1913.
Sweden, November 27, 1909.
Switzerland, May 12, 1910.
United States, November 27, 1909.

The Hague conference can not be regarded as binding in this war since several of the belligerent countries have not ratified it; article 9 required ratification by all to bind any of the countries as outlined by The Hague conference in 1907.

PART I.—GENERAL PROVISIONS.

Procedure and Disposition of Prize.

ARTICLE 1.

The validity of the capture of a merchant ship or its cargo is decided before a prize court in accordance with the present convention when neutral or enemy property is involved.

ARTICLE 2.

Jurisdiction in matters of prize is exercised in the first instance by the prize courts of the belligerent captor.

The judgments of these courts are pronounced in public or are officially notified to parties concerned who are neutrals or enemies.

ARTICLE 3.

The judgments of national prize courts may be brought before the International Prize Court—

1. When the judgment of the national prize courts affects the property of a neutral power or individual;

2. When the judgment affects enemy property and relates to—

(*a*) Crago on board a neutral ship;

(*b*) An enemy ship captured in the territorial waters of a neutral power when that power has not made the capture the subject of a diplomatic claim;

(*c*) A claim based upon the allegation that the seizure has been effected in violation either of the provisions of a convention in force between the belligerent powers or of an enactment issued by the belligerent captor.

The appeal against the judgment of the national court can be based on the ground that the judgment was wrong either in fact or in law.

ARTICLE 4.

An appeal may be brought—

1. By a neutral power if the judgment of the national tribunals injuriously affects its property or the property of its nationals (art. 3, No. 1), or if the capture of an enemy vessel is alleged to have taken place in the territorial waters of that power (art. 3, No. 2b);

2. By a neutral individual if the judgment of the national court injuriously affects his property (art. 3, No. 1), subject, however, to the reservation that the power to which he belongs may forbid him to bring the case before the court, or may itself undertake the proceedings in his place;

3. By an individual subject or citizen of an enemy power if the judgment of the national court injuriously affects his property in the cases referred to in article 3, No. 2, except that mentioned in paragraph b.

ARTICLE 5.

An appeal may also be brought on the same conditions as in the preceding article by persons belonging either to neutral States or to

the enemy, deriving their rights from and entitled to represent an individual qualified to appeal and who have taken part in the proceedings before the national court. Persons so entitled may appeal separately to the extent of their interest.

The same rule applies in the case of persons belonging either to neutral States or to the enemy who derive their rights from and are entitled to represent a neutral power whose property was the subject of the decision.

ARTICLE 6.

When, in accordance with the above article 3, the international court has jurisdiction the national courts can not deal with a case in more than two instances. The municipal law of the belligerent captor shall decide whether the case may be brought before the international court after judgment has been given in first instance or only after an appeal.

If the national courts fail to give final judgment within two years from the date of capture, the case may be carried direct to the international court.

ARTICLE 7.

If a question of law to be decided is covered by a treaty in force between the belligerent captor and a power which is itself or whose subject or citizen is a party to the proceedings, the court is governed by the provisions of the said treaty.

In the absence of such provisions, the court shall apply the rules of international law. If no generally recognized rule exists, the court shall give judgment in accordance with the general principles of justice and equity.

The above provisions apply equally to questions relating to the order and mode of proof.

If in accordance with article 3, No. 2c, the ground of appeal is the violation of an enactment issued by the belligerent captor, the court will enforce the enactment.

The court may disregard failure to comply with the procedure laid down in the enactments of the belligerent captor, when it is of opinion that the consequences of complying therewith are unjust and inequitable.

ARTICLE 8.

(See art. 2 of the additional protocol.)

If the court pronounces the capture of the vessel or cargo to be valid, they shall be disposed of in accordance with the laws of the belligerent captor.

If it pronounces the capture to be null, the court shall order restitution of the vessel or cargo, and shall fix, if there is occasion, the amount of damages. If the vessel or cargo have been sold or destroyed, the court shall determine the compensation to be given to the owner on this account.

If the national court pronounced the capture to be null, the court can only be asked to decide as to the damages.

ARTICLE 9.

The contracting powers undertake to submit in good faith to the decisions of the International Prize Court and to carry them out with the least possible delay.

PART II—CONSTITUTION OF THE INTERNATIONAL PRIZE COURT.

ARTICLE 10.

The International Prize Court is composed of judges and deputy judges, who will be appointed by the contracting powers, and must all be jurists of known proficiency in questions of international maritime law, and of the highest moral reputation.

The appointment of these judges and deputy judges shall be made within six months after the ratification of the present convention.

ARTICLE 11.

The judges and deputy judges are appointed for a period of six years, reckoned from the date on which the notification of their appointment is received by the administrative council established by the convention for the pacific settlement of international disputes of the 29th July, 1899. Their appointments can be renewed.

Should one of the judges or deputy judges die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case the appointment is made for a fresh period of six years.

ARTICLE 12.

The judges of the International Prize Court are all equal in rank and have precedence according to the date on which the notification of their appointment was received (art. 11, par. 1), and if they sit by rota (art. 15, par. 2), according to the date on which they entered upon their duties. When the date is the same the senior in age takes precedence.

The deputy judges when acting are assimilated to the judges. They rank, however, after them.

ARTICLE 13.

The judges enjoy diplomatic privileges and immunities in the performance of their duties and when outside their own country.

Before taking their seat the judges must swear, or make a solemn promise before the administrative council, to discharge their duties impartially and conscientiously.

ARTICLE 14.

The court is composed of 15 judges; 9 judges constitute a quorum.

A judge who is absent or prevented from sitting is replaced by the deputy judge.

ARTICLE 15.

(Reservation of this article was made by Chile, Cuba, Ecuador, Guatemala, Haiti, Persia, Salvador, Siam, Turkey, and Uruguay.)

The judges appointed by the following contracting powers, Germany, the United States of America, Austria-Hungary, France, Great Britain, Italy, Japan, and Russia, are always summoned to sit.

The judges and deputy judges appointed by the other contracting powers sit by rota as shown in the table annexed to the present convention; their duties may be performed successively by the same person. The same judge may be appointed by several of the said powers.

ARTICLE 16.

If a belligerent power has, according to the rota, no judge sitting in the court, it may ask that the judge appointed by it should take part in the settlement of all cases arising from the war. Lots shall then be drawn as to which of the judges entitled to sit according to the rota shall withdraw. This arrangement does not affect the judge appointed by the other belligerent.

ARTICLE 17.

No judge can sit who has been a party, in any way whatever, to the sentence pronounced by the national courts, or has taken part in the case as counsel or advocate for one of the parties.

No judge or deputy judge can, during his tenure of office, appear as agent or advocate before the International Prize Court nor act for one of the parties in any capacity whatever.

ARTICLE 18.

The belligerent captor is entitled to appoint a naval officer of high rank to sit as assessor, but with no voice in the decision. A neutral power, which is a party to the proceedings or whose subject or citizen is a party, has the same right of appointment; if as the result of this last provision more than one power is concerned, they must agree among themselves, if necessary by lot, on the officer to be appointed.

ARTICLE 19.

The court elects its president and vice president by an absolute majority of the votes cast. After two ballots, the election is made by a bare majority, and, in case the votes are equal, by lot.

ARTICLE 20.

The judges on the International Prize Court are entitled to traveling allowances in accordance with the regulations in force in their own country, and in addition receive, while the court is setting or while they are carrying out duties conferred upon them by the court, a sum of 100 Netherland florins per diem.

These payments are included in the general expenses of the court dealt with in article 47, and are paid through the International Bureau established by the convention of the 29th July, 1899.

The judges may not receive from their own Government or from that of any other power any remuneration in their capacity of members of the court.

ARTICLE 21.

The seat of the International Prize Court is at The Hague, and it can not, except in the cases of force majeure, be transferred elsewhere without the consent of the belligerents.

ARTICLE 22.

The administrative council fulfills, with regard to the International Prize Court, the same functions as to the Permanent Court of Arbitration, but only representatives of contracting powers will be members of it.

ARTICLE 23.

The International Bureau acts as registry to the International Prize Court and must place its offices and staff at the disposal of the court. It has charge of the archives and carries out the administrative work.

The secretary general of the International Bureau acts as registrar.

The necessary secretaries to assist the registrar, translators, and shorthand writers are appointed and sworn in by the court.

ARTICLE 24.

The court determines which language it will itself use and what languages may be used before it.

In every case the official language of the national courts which have had cognizance of the case may be used before the court.

ARTICLE 25.

Powers which are concerned in a case may appoint special agents to act as intermediaries between themselves and the court. They may also engage counsel or advocates to defend their rights and interests.

ARTICLE 26.

A private person concerned in a case will be represented before the court by an attorney, who must be either an advocate qualified to plead before a court of appeal or a high court of one of the contracting States, or a lawyer practicing before a similar court, or, lastly, a professor of law at one of the higher teaching centers of those countries.

ARTICLE 27.

For all notices to be served, in particular on the parties, witnesses, or experts, the court may apply direct to the Government of the

State on whose territory the service is to be carried out. The same rule applies in the case of steps being taken to procure evidence.

The requests for this purpose are to be executed so far as the means at the disposal of the power applied to under its municipal law allow. They can not be rejected unless the power in question considers them calculated to impair its sovereign rights or its safety. If the request is complied with, the fees charged must only comprise the expenses actually incurred.

The court is equally entitled to act through the power on whose territory it sits.

Notices to be given to parties in the place where the court sits may be served through the international bureau.

PART III.—PROCEDURE IN THE INTERNATIONAL PRIZE COURT.

ARTICLE 28.

(See art. 5 of the additional protocol.)

An appeal to the international prize court is entered by means of a written declaration made in the national court which has already dealt with the case or addressed to the international bureau; in the latter case the appeal can be entered by telegram.

The period within which the appeal must be entered is fixed at 120 days, counting from the day the decision is delivered or notified. (Art. 2, par. 2.)

ARTICLE 29.

(See art. 6 of the additional protocol.)

If the notice of appeal is entered in the national court, this court, without considering the question whether the appeal was entered in due time, will transmit within seven days the record of the case to the international bureau.

If the notice of the appeal is sent to the international bureau, the bureau will immediately inform the national court, when possible, by telegraph. The latter will transmit the record as provided in the preceding paragraph.

When the appeal is brought by a neutral individual the international bureau at once informs by telegraph the individual's Government, in order to enable it to enforce the rights it enjoys under article 4, paragraph 2.

ARTICLE 30.

In the case provided for in article 6, paragraph 2, the notice of appeal can be addressed to the international bureau only. It must be entered within 30 days of the expiration of the period of 2 years.

ARTICLE 31.

If the appellant does not enter his appeal within the period laid down in article 28 or 30, it shall be rejected without discussion.

Provided that he can show that he was prevented from so doing by force majeure and that the appeal was entered within 60 days

after the circumstances which prevented him entering it before had ceased to operate, the court can, after hearing the respondent, grant relief from the effect of the above provision.

ARTICLE 32.

If the appeal is entered in time, a certified copy of the notice of appeal is forthwith officially transmitted by the court to the respondent.

ARTICLE 33.

If in addition to the parties who are before the court there are other parties concerned who are entitled to appeal; or if, in the case referred to in article 29, paragraph 3, the Government who has received notice of an appeal has not announced its decision, the court will await before dealing with the case the expiration of the period laid down in article 28 or 30.

ARTICLE 34.

The procedure before the international court includes two distinct parts, the written pleadings and oral discussions.

The written pleadings consist of the deposit and exchange of cases, countercases, and, if necessary, of replies, of which the order is fixed by the court, as also the periods within which they must be delivered. The parties annex thereto all papers and documents of which they intend to make use.

A certified copy of every document produced by one party must be communicated to the other party through the medium of the court.

ARTICLE 35.

After the close of the pleadings a public sitting is held on a day fixed by the court.

At this sitting the parties state their view of the case both as to the law and as to the facts.

The court may, at any stage of the proceedings, suspend speeches of counsel, either at the request of one of the parties or on their own initiative, in order that supplementary evidence may be obtained.

ARTICLE 36.

The international court may order the supplementary evidence to be taken either in the manner provided by article 27, or before itself, or one or more of the members of the court, provided that this can be done without resort to compulsion or the use of threats.

If steps are to be taken for the purpose of obtaining evidence by members of the court outside the territory where it is sitting, the consent of the foreign Government must be obtained.

ARTICLE 37.

The parties are summoned to take part in all stages of the proceedings and receive certified copies of the minutes.

ARTICLE 38.

The discussions are under the control of the president or vice president, or, in case they are absent or can not act, of the senior judge present.

The judge appointed by a belligerent party can not preside.

ARTICLE 39.

The discussions take place in public, subject to the right of a government whc is a party to the case to demand that they be held in private.

Minutes are taken of these discussions and signed by the president and registrar, and these minutes alone have an authentic character.

ARTICLE 40.

If a party does not appear, despite the fact that he has been duly cited, or if a party fails to comply with some step within the period fixed by the court, the case proceeds without that party, and the court gives judgment in accordance with the material at its disposal.

ARTICLE 41.

The court officially notifies the parties of decrees or decisions made in their absence.

ARTICLE 42.

The court takes into consideration in arriving at its decisions all the facts, evidence, and oral statements.

ARTICLE 43.

The court considers its decision in private and the proceedings are secret.

All questions are decided by a majority of the judges present. If the number of judges is even and equally divided, the vote of the junior judge in the order of precedence laid down in article 12, paragraph 1, is not counted.

ARTICLE 44.

The judgment of the court must give the reasons on which it is based. It contains the names of the judges taking part in it, and also of the assessors, if any; it is signed by the president and registrar.

ARTICLE 45.

(See art. 7 of the additional protocol.)

The sentence is pronounced in public sitting, the parties concerned being present or duly summoned to attend; the sentence is officially communicated to the parties.

When this communication has been made the court transmits to the national prize court the record of the case, together with copies of the various decisions arrived at and of the minutes of the proceedings.

ARTICLE 46.

Each party pays its own costs.

The party against whom the court decides bears, in addition, the costs of the trial, and also pays 1 per cent of the value of the subject matter of the case as a contribution to the general expenses of the international court. The amount of these payments is fixed in the judgment of the court.

If the appeal is brought by an individual, he will furnish the international bureau with security to an amount fixed by the court, for the purpose of guaranteeing eventual fulfillment of the two obligations mentioned in the preceding paragraph. The court is entitled to postpone the opening of the proceedings until the security has been furnished.

ARTICLE 47.

The general expenses of the International Prize Court are borne by the contracting powers in proportion to their share in the composition of the court as laid down in article 15 and in the annexed table. (Post, p. 203.) The appointment of deputy judges does not involve any contribution.

The administrative council applies to the powers for the funds requisite for the working of the court.

ARTICLE 48.

When the court is not sitting the duties conferred upon it by article 32, article 34, paragraphs 2 and 3, article 35, paragraph 1, and article 46, paragraph 3, are discharged by a delegation of three judges appointed by the court. This delegation decides by a majority of votes.

ARTICLE 49.

The court itself draws up its own rules of procedure, which must be communicated to the contracting powers.

It will meet to elaborate these rules with a year of the ratification of the present convention.

ARTICLE 50.

The court may propose modifications in the provisions of the present convention concerning procedure. These proposals are communicated, through the medium of the Netherland Government, to the contracting powers, which will consider together as to the measures to be taken.

PART IV—FINAL PROVISIONS.

ARTICLE 51.

The present convention does not apply as of right except when the belligerent powers are all parties to the convention.

It is further fully understood that an appeal to the International Prize Court can only be brought by a contracting power or the subject or citizen of a contracting power.

In the cases mentioned in article 5 the appeal is only admitted when both the owner and the person entitled to represent him are equally contracting powers or the subjects or citizens of contracting powers.

ARTICLE 52.

The present convention shall be ratified and the ratifications shall be deposited at The Hague as soon as all the powers mentioned in article 15 and in the table annexed are in a position to do so.

The deposit of the ratifications shall take place, in any case, on the 30th June, 1909, if the powers which are ready to ratify furnish nine judges and nine deputy judges to the court, qualified to validly constitute a court. If not, the deposit shall be postponed until this condition is fulfilled.

A minute of the deposit of ratifications shall be drawn up, of which a certified copy shall be forwarded through the diplomatic channel, to each of the powers referred to in the first paragraph. (See art. 8 of the additional protocol, post, p. 207.)

ARTICLE 53.

The powers referred to in article 15 and in the table annexed are entitled to sign the present convention up to the deposit of the ratifications contemplated in paragraph 2 of the preceding article.

After this deposit they can at any time adhere to it, purely and simply. (See art. 9 of the additional protocol, post, p. 207.) A power wishing to adhere, notifies its intention in writing to the Netherlands Government, transmitting to it, at the same time, the act of adhesion, which shall be deposited in the archives of the said Government. The latter shall send, through the diplomatic channel, a certified copy of the notification and of the act of adhesion to all the powers referred to in the preceding paragraph, informing them of the date on which it has received the notification.

ARTICLE 54.

The present convention shall come into force six months from the deposit of the ratifications contemplated in article 52, paragraphs 1 and 2.

The adhesions shall take effect 60 days after notification of such adhesion has been received by the Netherlands Government or as soon as possible on the expiration of the period contemplated in the preceding paragraph.

The international court shall, however, have jurisdiction to deal with prize cases decided by the national courts at any time after the deposit of the ratifications or of the receipt of the notification of the adhesions. In such cases the period fixed in article 28, paragraph 2, shall only be reckoned from the date when the convention comes into force as regards a power which has ratified or adhered.

ARTICLE 55.

The present convention shall remain in force for 12 years from the time it comes into force, as determined by article 54, paragraph 1, even in the case of powers which adhere subsequently.

It shall be renewed tacitly from six years to six years unless denounced.

Denunciations must be notified in writing, at least one year before the expiration of each of the periods mentioned in the two preceding paragraphs, to the Netherlands Government, which will inform all the other contracting powers.

Denunciation shall only take effect in regard to the power which has modified it. The convention shall remain in force in the case of the other contracting powers, provided that their participation in the appointment of judges is sufficient to allow of the composition of the court with nine judges and nine deputy judges.

ARTICLE 56.

In case the present convention is not in operation as regards all the powers referred to in article 15 and the annexed table, the administrative council shall draw up a list on the lines of that article and table of the judges and deputy judges through whom the contracting powers will share in the composition of the court. The times allotted by the said table to judges who are summoned to sit in rota will be redistributed between the different years of the six-year period in such a way that, as far as possible, the number of the judges of the court in each year shall be the same. If the number of deputy judges is greater than that of the judges, the number of the latter can be completed by deputy judges chosen by lot among those powers which do not nominate a judge.

The list drawn up in this way by the administrative council shall be notified to the contracting powers. It shall be revised when the number of these powers is modified as the result of adhesions or denunciations.

The change resulting from an adhesion is not made until the first January after the date on which the adhesion takes effect, unless the adhering power is a belligerent power, in which case it can ask to be at once represented in the court, the provisions of article 16 being, moreover, applicable if necessary.

When the total number of judges is less than 11, 7 judges form a quorum.

ARTICLE 57.

Two years before the expiration of each period referred to in paragraphs 1 and 2 of article 55 any contracting power can demand a modification of the provisions of article 15 and of the annexed table, relative to its participation in the composition of the court. The demand shall be addressed to the administrative council, which will examine it and submit to all the powers proposals as to the measures to be adopted. The powers shall inform the administrative council of their decision with the least possible delay. The result shall be at once, and at least 1 year and 30 days before the expiration of the

said period of 2 years, communicated to the power which made the demand.

When necessary, the modifications adopted by the powers shall come into force from the commencement of the fresh period.

SIGNATURES AND RESERVATIONS.

[The deposit of ratifications provided for in art. 52, par. 2, has not yet taken place.]

Both the 1907 convention and the 1910 additional protocol have been signed by the following powers:

Argentine Republic, Austria-Hungary, Belgium, Bolivia, Bulgaria, Chile, Colombia, Cuba, Denmark, Ecuador, France, Germany, Great Britain, Guatemala, Haiti, Italy, Japan, Mexico, Netherlands, Norway, Panama, Paraguay, Persia, Peru, Portugal, Salvador, Siam, Spain, Sweden, Switzerland, Turkey, United States, and Uruguay.

Reservations: Chile, Cuba, Ecuador, Guatemala, Haiti, Persia, Salvador, Siam, Turkey, and Uruguay signed the convention with reservation of article 15.

Mr. Speaker, in view of the much-discussed question of warships or auxiliaries in neutral waters, I herein insert the findings of The Hague conference on the "Rights and Duties of Neutral Powers in Naval War," as adopted October 18, 1907.

ARTICLE 1.

Belligerents are bound to respect the sovereign rights of neutral powers and to abstain, in neutral territory or neutral waters, from any act which would, if knowingly permitted by any power, constitute a violation of neutrality.

ARTICLE 2.

Any act of hostility, including capture and the exercise of the right of search, committed by belligerent warships in the territorial waters of a neutral power, constitutes a violation of neutrality and is strictly forbidden.

ARTICLE 3.

When a ship has been captured in the territorial waters of a neutral power this power must employ, if the prize is still within its jurisdiction, the means at its disposal to release the prize with its officers and crew and to intern the prize crew.

If the prize is not in the jurisdiction of the neutral power, the captor government, on the demand of that power, must liberate the prize with its officers and crew.

ARTICLE 4.

A prize court can not be set up by a belligerent on neutral territory or on a vessel in neutral waters.

ARTICLE 5.

Belligerents are forbidden to use neutral ports and waters as a base of naval operations against their adversaries, and in particular to erect wireless telegraphy stations or any apparatus for the purpose of communicating with the belligerent forces on land or sea.

ARTICLE 6.

The supply, in any manner, directly or indirectly, by a neutral power to a belligerent power or warships ammunition or war material of any kind whatever is forbidden.

ARTICLE 7.

A neutral power is not bound to prevent the export or transit for the use of either belligerent of arms, ammunition, or, in general, of anything which could be of use to an army or fleet.

ARTICLE 8.

A neutral Government is bound to employ the means at its disposal to prevent the fitting out or arming of any vessel within its jurisdiction which it has reason to believe is intended to cruise or engage in hostile operations against a power with which that Government is at peace. It is also bound to display the same vigilance to prevent the departure from its jurisdiction of any vessel intended to cruise or engage in hostile operations which had been adapted entirely or partly within the said jurisdiction for use in war.

ARTICLE 9.

A neutral power must apply impartially to the two belligerents the conditions, restrictions, or prohibitions made by it in regard to the admission into its ports, roadsteads, or territorial waters of belligerent warships or of their prizes.

Nevertheless, a neutral power may forbid a belligerent vessel which has failed to conform to the orders and regulations made by it, or which has violated neutrality, to enter its ports or roadsteads.

ARTICLE 10.

(See the declarations of Turkey as to the Dardanelles and Bosphorus.)

The neutrality of a power is not affected by the mere passage through its territorial waters of warships or prizes belonging to belligerents.

ARTICLE 11.

(Germany made reservation of article 11.)

A neutral power may allow belligerent warships to employ its licensed pilots.

ARTICLE 12.

(The Dominican Republic, Germany, Persia, and Siam made reservation of article 12.)

In the absence of special provisions to the contrary in the legislation of a neutral power, belligerent warships are not permitted to remain in the ports, roadsteads, or territorial waters of the said power for more than 24 hours, except in the cases covered by the present convention.

ARTICLE 13.

(Germany made reservation of article 13.)

If a power which has been informed of the outbreak of hostilities learns that a belligerent warship is in one of its ports or roadsteads or in its territorial waters, it must notify the said ship to depart within 24 hours or within the time prescribed by local regulations.

ARTICLE 14.

A belligerent warship may not prolong its stay in a neutral port beyond the permissible time except on account of damage or stress of weather. It must depart as soon as the cause of the delay is at an end.

The regulations as to the question of the length of time which these vessels may remain in neutral ports, roadsteads, or waters do not apply to warships devoted exclusively to religious, scientific, or philanthropic purposes. (China made reservation of this paragraph.)

ARTICLE 15.

In the absence of special provisions to the contrary in the legislation of a neutral power, the maximum number of warships belonging to a belligerent which may be in one of the ports or roadsteads of that power simultaneously shall be three.

ARTICLE 16.

When warships belonging to both belligerents are present simultaneously in a neutral port or roadstead a period of not less than 24 hours must elapse between the departure of the ship belonging to one belligerent and the departure of the ship belonging to the other.

The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permissible.

A belligerent warship may not leave a neutral port or roadstead until 24 hours after the departure of a merchant ship flying the flag of its adversary.

ARTICLE 17.

In neutral ports and roadsteads belligerent warships may only carry out such repairs as are absolutely necessary to render them seaworthy, and may not add in any manner whatsoever to their fighting

force. The local authorities of the neutral power shall decide what repairs are necessary, and these must be carried out with the least possible delay.

ARTICLE 18.

Belligerent warships may not make use of neutral ports, roadsteads, or territorial waters for replenishing or increasing their supplies of war material or their armament or for completing their crews.

ARTICLE 19.

(China, Great Britain, Japan, Persia, and Siam made reservation of article 19.)

Belligerent warships may only revictual in neutral ports or roadsteads to bring up their supplies to the peace standard.

Similarly, these vessels may only ship sufficient fuel to enable them to reach the nearest port in their own country. They may, on the other hand, fill up their bunkers built to carry fuel when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.

If, in accordance with the law of the neutral power, the ships are not supplied with coal within 24 hours of their arrival, the permissible duration of their stay is extended by 24 hours.

ARTICLE 20.

(Germany made reservation of article 20.)

Belligerent warships which have shipped fuel in a port belonging to a neutral power may not within the succeeding three months replenish their supply in a port of the same power.

ARTICLE 21.

(Persia made reservation of article 21.)

A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions.

It must leave as soon as the circumstances which justified its entry are at an end. If it does not, the neutral power must order it to leave at once. Should it fail to obey, the neutral power must employ the means at its disposal to release it, with its officers and crew, and to intern the prize crew.

ARTICLE 22.

A neutral power must similarly release a prize brought into one of its ports under circumstances other than those referred to in article 21.

ARTICLE 23.

(Reservations as to this article were made by Great Britain, Japan, Siam, and the United States.)

A neutral power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to

be sequestrated pending the decision of a prize court. It may have the prize taken to another of its ports.

If the prize is convoyed by a warship, the prize crew may go on board the convoying ship.

If the prize is not under convoy, the prize crew are left at liberty.

ARTICLE 24.

If, notwithstanding the notification of the neutral power, a belligerent ship of war does not leave a port where it is not entitled to remain, the neutral power is entitled to take such measures as it considers necessary to render the ship incapable of taking the sea during the war, and the commanding officer of the ship must facilitate the execution of such measures.

When a belligerent ship is detained by a neutral power the officers and crew are likewise detained.

The officers and crew thus detained may be left in the ship or kept either on another vessel or on land, and may be subjected to the measures of restrictions which it may appear necessary to impose upon them. A sufficient number of men for looking after the vessel must, however, be always left on board.

The officers may be left at liberty on giving their word not to quit the neutral territory without permission.

ARTICLE 25.

A neutral power is bound to exercise such surveillance as the means at its disposal allow to prevent any violation of the provisions of the above articles occurring in its port or roadsteads or in its waters.

ARTICLE 26.

The exercise by a neutral power of the rights laid down in the present convention can under no circumstances be considered as an unfriendly act by one or other belligerent who has accepted the articles relating thereto.

ARTICLE 27.

(China made reservation of this article.)

The contracting powers shall communicate to each other in due course all laws, proclamations, and other enactments regulating in their respective countries the status of belligerent warships in their ports and waters, by means of a communication addressed to the Government of the Netherlands, and forwarded immediately by that Government to the other contracting powers.

ARTICLE 28.

The provisions of the present convention do not apply except between contracting powers, and then only if all the belligerents are parties to the convention.

ARTICLE 29.

The present convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratification shall be recorded in a procès verbal signed by the representatives of the powers which take part therein and by the Netherlands minister for foreign affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherlands Government and accompanied by the instrument of ratification.

A duly certified copy of the procès verbal relative to the first deposit of ratifications, of the ratifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherlands Government, through the diplomatic channel, to the powers invited to the Second Peace Conference, as well as to the other powers which have adhered to the convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE 30.

Nonsignatory powers may adhere to the present convention.

The power which desires to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

That Government shall at once transmit to all the other powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE 31.

The present convention shall come into force, in the case of the powers which were a party to the first deposit of the ratifications, 60 days after the date of the procès verbal of that deposit, and in the case of the powers who ratify subsequently or who adhere, 60 days after the notification of their ratification or of their decision has been received by the Netherland Government.

ARTICLE 32.

In the event of one of the contracting powers wishing to denounce the present convention, the denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a duly certified copy of the notification to all the other powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying power, and one year after the notification has been made to the Netherland Government.

ARTICLE 33.

A registry kept by the Netherland Ministry of Foreign Affairs shall give the date of the deposit of ratification made by article 29, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (art. 30, par. 2) or of denunciation (art 32, par. 1) have been received.

Each contracting power is entitled to have access to this register and to be supplied with duly certified extracts.

In faith whereof the plenipotentiaries have appended their signatures to the present convention.

Done at The Hague the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the powers which have been invited to the Second Peace Conference.

[Here follow signatures.]

RATIFICATIONS.

The foregoing convention was ratified by the following signatory powers on the dates indicated:

Austria-Hungary, November 27, 1909.
Belgium, August 8, 1910.
Brazil, January 5, 1914.
Denmark, November 27, 1909.
France, October 7, 1910.
Germany, November 27, 1909.
Guatemala, March 15, 1911.
Haiti, February 2, 1910.
Japan, December 13, 1911.
Luxemburg, September 5, 1912.
Mexico, November 27, 1909.
Netherlands, November 27, 1909.
Norway, September 19, 1910.
Panama, September 11, 1911.
Portugal, April 13, 1911.
Roumania, March 1, 1912.
Russia, November 27, 1909.
Salvador, November 27, 1909.
Siam, March 12, 1910.
Sweden, November 27, 1909.
Switzerland, May 12, 1910.

Two years after The Hague conference upon the motion of Great Britain a conference of nations was held at London for the purpose of agreeing upon a code of both neutral and belligerent rights upon the sea. The work and report of this famous conference is known as the declaration of London. While it is true that it is not binding since some of the signatory countries, including Great Britain, failed to ratify the work of the conference, nevertheless the document is illuminating at this time. I here insert that portion which touches the rights upon the sea of both neutral and belligerent powers. Since the declaration had not been ratified by all the present belligerent countries, our Government soon after the outbreak of the war addressed a note simultaneously to the belligerents asking whether they would adopt the declaration of London as the rule for naval action toward neutrals:

(The Secretary of State to the American ambassador at London.)

Mr. Bryan instructs Mr. Page to inquire whether the British Government is willing to agree that the laws of naval warfare as laid

down by the declaration of London of 1909 shall be applicable to naval warfare during the present conflict in Europe, provided that the Governments with whom Great Britain is or may be at war also agree to such application. Mr. Bryan further instructs Mr. Page to state that the Government of the United States believes that an acceptance of these laws by the belligerents would prevent grave misunderstandings which may arise as to the relations between neutral powers and the belligerents. Mr. Bryan adds that it is earnestly hoped that this inquiry may receive favorable consideration.

The note was addressed on the 6th of August, 1914.[1]

On the 22d of August England replied as follows:

(The secretary of State for foreign affairs ad interim to the American ambassador.)

YOUR EXCELLENCY: On the 7th instant you were so good as to address to me a note inquiring, pursuant to instructions from the Secretary of State at Washington, whether His Majesty's Government were willing to agree that the laws of naval warfare, as laid down by the declaration of London, 1909, should be applicable to naval warfare during the present European conflict, provided that the Governments with whom Great Britain is at war, or with whom her relations are not normal, also agree to such application.

Your excellency added that it was the belief of your Government that the acceptance of these laws by the belligerents would prevent the possibility of grave misunderstandings as to the relations between belligerents and neutrals.

I have the honor to inform your excellency that His Majesty's Government, who attach great importance to the views expressed in your excellency's note and are animated by a keen desire to consult so far as possible the interests of neutral countries, have given this matter their most careful consideration, and have pleasure in stating that they have decided to adopt generally the rules of the declaration in question, subject to certain modifications and additions which they judge indispensable to the efficient conduct of their naval operations. A detailed explanation of these additions and modifications is contained in the inclosed memorandum.

The necessary steps to carry the above decision into effect have now been taken by the issue of an order in council, of which I have the honor to inclose copies herein for your excellency's information and for transmission to your Government.

I may add that His Majesty's Government, in deciding to adhere to the rules of the declaration of London, subject only to the aforesaid modifications and additions, have not waited to learn the intentions of the enemy Governments, but have been actuated by a desire to terminate at the earliest moment the condition of uncertainty which has been prejudicing the interests of neutral trade.

I have, etc.,

E. A. CROWE.

Great Britain having rejected the declaration of London, our Government sent the following note, withdrawing our suggestions:

(The Secretary of State ad interim to the American ambassador at London.)

Inasmuch as the British Government consider that the conditions of the present European conflict make it impossible for them to ac-

[1] Germany agreed to accept it in case it was also accepted by her enemies.

cept without modification the declaration of London, you are requested to inform His Majesty's Government that in the circumstances the Government of the United States feels obliged to withdraw its suggestion that the declaration of London be adopted as a temporary code of naval warfare to be observed by belligerents and neutrals during the present war; that, therefore, this Government will insist that the rights and duties of the United States and its citizens in the present war be defined by the existing rules of international law and the treaties of the United States irrespective of the provisions of the declaration of London; and that this Government reserves to itself the right to enter a protest or demand in each case in which those rights and duties so defined are violated or their free exercise interfered with by the authorities of His Britannic Majesty's Government.

LANSING.

It will be noted that a definite list of articles as contraband, in accordance with the instruction of the British delegates, was enumerated. Articles 22 and 23 specified what should be regarded as contraband and articles 28 and 29 declared what should not be contraband. Article 25 permits an increase of the conditional list.

CONTRABAND OF WAR.

ARTICLE 22.

The following articles may, without notice, be treated as contraband of war, under the name of absolute contraband:

(1) Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.

(2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.

(3) Powder and explosives especially prepared for use in war.

(4) Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.

(5) Clothing and equipment of a distinctively military character.

(6) All kinds of harness of a distinctively military character.

(7) Saddle, draft, and pack animals suitable for use in war.

(8) Articles of camp equipment, and their distinctive component parts.

(9) Armor plates.

(10) Warships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.

(11) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land or sea.

ARTICLE 23.

Articles exclusively used for war may be added to the list of absolute contraband by a declaration, which must be notified.

Such notification must be addressed to the Governments of other powers or to their representatives accredited to the power making the declaration. A notification made after the outbreak of hostilities is addressed only to neutral powers.

ARTICLE 24.

The following articles, susceptible of use in war as well as for purposes of peace, may, without notice, be treated as contraband of war, under the name of conditional contraband:

(1) Foodstuffs.

(2) Forage and grain, suitable for feeding animals.

(3) Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.

(4) Gold and silver in coin or bullion; paper money.

(5) Vehicles of all kinds available for use in war, and their component parts.

(6) Vessels, craft, and boats of all kinds; floating docks, parts of docks and their component parts.

(7) Railway material, both fixed and rolling stock, and material for telegraphs, wireless telegraphs, and telephone.

(8) Balloons and flying machines and their distinctive component parts, together with accessories and articles recognizable as intended for use in connection with balloons and flying machines.

(9) Fuel; lubricants.

(10) Powder and explosives not specially prepared for use in war.

(11) Barbed wire and implements for fixing and cutting the same.

(12) Horseshoes and shoeing materials.

(13) Harness and saddlery.

(14) Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

ARTICLE 25.

Articles susceptible of use in war as well as for purposes of peace, other than those enumerated in articles 22 and 24, may be added to the list of conditional contraband by a declaration, which must be notified in the manner provided for in the second paragraph of article 23.

ARTICLE 26.

If a power waives, so far as it is concerned, the right to treat as contraband of war an article comprised in any of the classes enumerated in articles 22 and 24, such intention shall be announced by a declaration, which must be notified in the manner provided for in the second paragraph of article 23.

ARTICLE 27.

Articles which are not susceptible of use in war may not be declared contraband of war.

ARTICLE 28.

The following may not be declared contraband of war:

(1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and yarns of the same.

(2) Oil seeds and nuts; copra.

(3) Rubber, resins, gums, and laces; hops.
(4) Raw hides and horns, bones, and ivory.
(5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes.
(6) Metallic ores.
(7) Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.
(8) Chinaware and glass.
(9) Paper and paper-making materials.
(10) Soap, paint, and colors, including articles exclusively used in their manufacture, and varnish.
(11) Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.
(12) Agricultural, mining, textile, and printing machinery.
(13) Precious and semiprecious stones, pearls, mother-of-pearl, and coral.
(14) Clocks and watches other than chronometers.
(15) Fashion and fancy goods.
(16) Feathers of all kinds, hairs, and bristles.
(17) Articles of household furniture and decoration; office furniture and requisites.

ARTICLE 29.

Likewise the following may not be treated as contraband of war:
(1) Articles serving exclusively to aid the sick and wounded. They can, however, in case of urgent military necessity and subject to the payment of compensation, be requisitioned if their destination is that specified in article 30.
(2) Articles intended for the use of the vessel in which they are found, as well as those intended for the use of her crew and passengers during the voyage.

ARTICLE 30.

Absolute contraband is liable to capture if it is shown to be destined to territory belonging to or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails transshipment or a subsequent transport by land.

ARTICLE 31.

Proof of the destination specified in article 30 is complete in the following cases:
(1) When the goods are documented for discharge in an enemy port, or for delivery to the armed forces of the enemy.
(2) When the vessel is to call at enemy ports only, or when she is to touch at any enemy port or meet the armed forces of the enemy before reaching the neutral port for which the goods in question are documented.

ARTICLE 32.

When a vessel is carrying absolute contraband her papers are conclusive proof as to the voyage on which she is engaged, unless she is

found clearly out of the course indicated by her papers and unable to give adequate reasons to justify such deviation.

ARTICLE 33.

Conditional contraband is liable to capture if it is shown to be destined for the use of the armed forces or of a Government department of the enemy State, unless in this latter case the circumstances show that the goods can not in fact be used for the purposes of war in progress. This latter exception does not apply to a consignment coming under article 24 (4).

ARTICLE 34.

The destination referred to in article 33 is presumed to exist if the goods are consigned to enemy authorities, or to a contractor established in the enemy country, who, as a matter of common knowledge, supplies articles of this kind to the enemy. A similar presumption arises if the goods are consigned to a fortified place belonging to the enemy, or other place serving as a base for the armed forces of the enemy. No such presumption, however, arises in the case of a merchant vessel bound for one of these places if it is sought to prove that she herself is contraband.

In cases where the above presumptions do not arise the destination is presumed to be innocent.

The presumptions set up by this article may be rebutted.

ARTICLE 35.

Conditional contraband is not liable to capture, except when found on board a vessel bound for territory belonging to or occupied by the enemy, or for the armed forces of the enemy, and when it is not to be discharged in an intervening neutral port.

The ship's papers are conclusive proof both as to the voyage on which the vessel is engaged and as to the port of discharge of the goods, unless she is found clearly out of the course indicated by her papers, and unable to give adequate reasons to justify such deviation.

ARTICLE 36.

Notwithstanding the provisions of article 35, conditional contraband, if shown to have the destination referred to in article 33, is liable to capture in cases where the enemy country has no seaboard.

ARTICLE 37.

A vessel carrying goods liable to capture as absolute or conditional contraband may be captured on the high seas or in the territorial waters of the belligerents throughout the whole of her voyage, even if she is to touch at a port of call before reaching the hostile destination.

ARTICLE 38.

A vessel may not be captured on the ground that she has carried contraband on a previous occasion if such carriage is in point of fact at an end.

ARTICLE 39.

Contraband goods are liable to condemnation.

ARTICLE 40.

A vessel carrying contraband may be condemned if the contraband reckoned either by value, weight, volume, or freight forms more than half the cargo.

ARTICLE 41.

If a vessel carrying contraband is released, she may be condemned to pay the costs and expenses incurred by the captor in respect of the proceedings in the national prize court and the custody of the ship and cargo during the proceedings.

ARTICLE 42.

Goods which belong to the owner of the contraband and are on board the same vessel are liable to condemnation.

ARTICLE 43.

If a vessel is encountered at sea while unaware of the outbreak of hostilities or of the declaration of contraband which applies to her cargo, the contraband can not be condemned except on payment of compensation; the vessel herself and the remainder of the cargo are not liable to condemnation or to the costs and expenses referred to in article 41. The same rule applies if the master, after becoming aware of the outbreak of hostilities or of the declaration of contraband, has had no opportunity of discharging the contraband.

A vessel is deemed to be aware of the existence of a state of war or of a declaration of contraband if she left a neutral port subsequently to the notification to the power to which such port belongs at the outbreak of hostilities or of the declaration of contraband, respectively, provided that such notification was made in sufficient time. A vessel is also deemed to be aware of the existence of a state of war if she left an enemy port after the outbreak of hostilities.

ARTICLE 44.

A vessel which has been stopped on the ground that she is carrying contraband, and which is not liable to condemnation on account of the proportion of contraband on board, may, when the circumstances permit, be allowed to continue her voyage if the master is willing to hand over the contraband to the belligerent warship.

The delivery of the contraband must be entered by the captor on the log book of the vessel stopped, and the master must give the captor duly certified copies of all relevant papers.

The captor is at liberty to destroy the contraband that has been handed over to him under these conditions.

Great Britain having modified her lists of contraband on August 12 and again on September 21, 1914, announced a third change.

British proclamation, October 29, 1914, revising the list of contraband of war.

Whereas on the 4th day of August, 1914, we did issue our royal proclamation specifying the articles which it was our intention to treat as contraband of war during the war between us and the German Emperor; and

Whereas on the 12th day of August, 1914, we did by our royal proclamation of that date extend our proclamation aforementioned to the war between us and the Emperor of Austria, King of Hungary; and

Whereas on the 21st day of September, 1914, we did by our royal proclamation of that date make certain additions to the list of articles to be treated as contraband of war; and

Whereas it is expedient to consolidate the said lists and to make certain additions thereto: Now, therefore,

We do hereby declare, by and with the advice of our privy council, that the list of contraband contained in the schedules to our royal proclamations of the 4th day of August and the 21st day of September aforementioned are hereby withdrawn and that in lieu thereof during the continuance of the war or until we do give further public notice the articles enumerated in Schedule I hereto will be treated as absolute contraband and the articles enumerated in Schedule II hereto will be treated conditional contraband.

SCHEDULE I.

1. Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
2. Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
3. Powder and explosives specially prepared for use in war.
4. Sulphuric acid.
5. Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.
6. Range finders and their distinctive component parts.
7. Clothing and equipment of a distinctively military character.
8. Saddle, draft, and pack animals suitable for use in war.
9. All kinds of harness of a distinctively military character.
10. Articles of camp equipment and their distinctive component parts.
11. Armor plates.
12. Hematite iron ore and hematite pig iron.
13. Iron pyrites.
14. Nickel ore and nickel.
15. Ferrochrome and chrome ore.
16. Copper, unwrought.
17. Lead, pig, sheet or pipe.
18. Aluminum.
19. Ferrosilica
20. Barbed wire and implements for fixing and cutting the same.
21. Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war.
22. Aeroplanes, airships, balloons, and aircraft of all kinds and their component parts, together with accessories and articles recognizable as intended for use in connection with balloons and aircraft.
23. Motor vehicles of all kinds and their component parts.

24. Motor tires; rubber.
25. Mineral oils and motor spirit, except lubricating oils.
26. Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land and sea.

SCHEDULE II.

1. Foodstuffs.
2. Forage and feeding stuff for animals.
3. Clothing, fabrics for clothing, and boots and shoes suitable for use in war.
4. Gold and silver in coin or bullion; paper money.
5. Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.
6. Vessels, craft, and boats of all kinds; floating docks, parts of docks, and their component parts.
7. Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones.
8. Fuel, other than mineral oils. Lubricants.
9. Powder and explosives not specially prepared for use in war.
10. Sulphur.
11. Glycerine.
12. Horseshoes and shoeing materials.
13. Harness and saddlery.
14. Hides of all kinds, dry or wet; pigskins, raw or dressed; leather undressed or dressed, suitable for saddlery, harness, or military boots.
15. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

ANOTHER REVISION.

Modifying the Declaration of London on the question of contraband.

British order in council, October 29, 1914, adopting the Declaration of London, exclusive of the lists of contraband and noncontraband, and inclusive of certain other modifications:

Whereas by an order in council, dated the 20th day of August, 1914, His Majesty was pleased to declare that during the present hostilities the convention known as the Declaration of London should, subject to certain additions and modifications therein specified, be adopted and put in force by His Majesty's Government; and
Whereas the said additions and modifications were rendered necessary by the special conditions of the present war; and
Whereas it is desirable and possible now to reenact the said order in council with amendments in order to minimize, so far as possible, the interference with innocent neutral trade occasioned by the war: Now, therefore, His Majesty, by and with the advice of his privy council, is pleased to order, and it is hereby ordered, as follows:

1. During the present hostilities, the provisions of the convention known as the declaration of London shall, subject to the exclusion of the lists of contraband and noncontraband, and to the modifications hereinafter set out, be adopted and put in force by His Majesty's Government.

The modifications are as follows:

(i) A neutral vessel, with papers indicating a neutral destination, which notwithstanding the destination shown on the papers proceeds to an enemy port, shall be liable to capture and condemnation if she is encountered before the end of her next voyage.

(ii) The destination referred to in article 33 of the said declaration shall (in addition to the presumptions laid down in article 34) be presumed to exist if the goods are consigned to or for an agent of the enemy State.

(iii) Notwithstanding the provisions of article 35 of the said declaration, conditional contraband shall be liable to capture on board a vessel bound to a neutral port if the goods are consigned "to order." or if the ship's papers do not show who is the consignee of the goods, or if they show a consignee of the goods in territory belonging to or occupied by the enemy.

(iv) In the cases covered by the preceding paragraph (iii) it shall lie upon the owners of the goods to prove that their destination was innocent.

2. Where it is shown to the satisfaction of one of His Majesty's principal secretaries of state that the enemy Government is drawing supplies for its armed forces from or through a neutral country, he may direct that in respect of ships bound for a port in that country, article 35 of the said declaration shall not apply. Such direction shall be notified in the London Gazette and shall operate until the same is withdrawn. So long as such direction is in force, a vessel which is carrying conditional contraband to a port in that country shall not be immune from capture.

3. The order in council of the 20th August, 1914, directing the adoption and enforcement during the present hostilities of the convention known as the declaration of London, subject to the additions and modifications therein specified, is hereby repealed.

4. This order may be cited as "the declaration of London order in council, No. 2, 1914."

And the lords commissioners of His Majesty's treasury, the lords commissioners of the Admiralty, and each of His Majesty's principal secretaries of state, the president of the probate, divorce, and admiralty division of the high court of justice, all other judges of His Majesty's prize courts, and all governors, officers, and authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain.

Two months later, December 23, Britain again changed her list of contraband, as follows:

Whereas on the 4th day of August, 1914, we did issue our royal proclamation specifying the articles which it was our intention to treat as contraband of war during the war between us and the German Emperor; and

Whereas on the 12th day of August, 1914, we did by our royal proclamation of that date extend our proclamation aforementioned to the war between us and the Emperor of Austria, King of Hungary; and

Whereas on the 21st day of September, 1914, we did by our royal proclamation of that date make certain additions to the list of articles to be treated as contraband of war; and

Whereas on the 29th day of October, 1914, we did by our royal proclamation of that date withdraw the said lists of contraband and substitute therefor the lists contained in the schedules to the said proclamation; and

Whereas it is expedient to make certain alterations in and additions to the said lists:

Now, therefore, we do hereby declare, by and with the advice of our privy council, that the lists of contraband contained in the schedules to our royal proclamation of the 29th day of October aforementioned are hereby withdrawn, and that in lieu thereof during the continuance of the war or until we do give further public notice the articles enumerated in Schedule I hereto will be treated as absolute contraband, and the articles enumerated in Schedule II hereto will be treated as conditional contraband.

SCHEDULE I.

1. Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
2. Projectiles, charges, and cartridges of all kinds and their distinctive component parts.
3. Powder and explosives specially prepared for use in war.
4. Ingredients of explosives, viz., nitric acid, sulphuric acid, glycerine, acetone, calcium acetate and all other metallic acetates, sulphur, potassium nitrate, the fractions of the distillation products of coal tar between benzol and cresol, inclusive, aniline, methylaniline, dimethylaniline, ammonium perchlorate, sodium perchlorate, sodium chlorate, barium chlorate, ammonium nitrate, cyanamide, potassium chlorate, calcium nitrate, mercury.
5. Resinous products, camphor, and turpentine (oil and spirit).
6. Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.
7. Range finders and their distinctive component parts.
8. Clothing and equipment of a distinctively military character.
9. Saddle, draft, and pack animals suitable for use in war.
10. All kinds of harness of a distinctively military character.
11. Articles of camp equipment and their distinctive component parts.
12. Armor plates.
13. Ferroalloys, including ferrotungsten, ferromolybdenum, ferromanganese, ferrovanadium, ferrochrome.
14. The following metals: Tungsten, molybdenum, vanadium, nickel, selenium, cobalt, hematite, pig iron, manganese.
15. The following ores: Wolframite, scheelite, molybdenite, manganese ore, nickel ore, chrome ore, hematite iron, zinc ore, lead ore, bauxite.
16. Aluminum, alumina, and salts of aluminum.
17. Antimony, together with the sulphides and oxides of antimony.
18. Copper, unwrought and part wrought, and copper wire.
19. Lead, pig, sheet, or pipe.
20. Barbed wire and implements for fixing and cutting the same.
21. Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war.
22. Submarine sound-signaling apparatus.

23. Aeroplanes, airships, balloons, and aircrafts of all kinds, and their component parts, together with accessories and articles recognizable as intended for use in connection with balloons and aircraft.
24. Motor vehicles of all kinds and their component parts.
25. Tires for motor vehicles and for cycles, together with articles of materials especially adapted for use in the manufacture or repair of tires.
26. Rubber (including raw, waste, and reclaimed rubber) and goods made wholly of rubber.
27. Iron pyrites.
28. Mineral oils and motor spirit, except lubricating oils.
29. Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land and sea.

SCHEDULE II.

1. Foodstuffs.
2. Forage and feeding stuffs for animals.
3. Clothing, fabrics for clothing, and boots and shoes suitable for use in war.
4. Gold and silver in coin or bullion; paper money.
5. Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.
6. Vessels, craft, and boats of all kinds; floating docks, parts of docks, and their component parts.
7. Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones.
8. Fuel, other than mineral oils. Lubricants.
9. Power and explosives not specially prepared for use in war.
10. Horseshoes and shoeing materials.
11. Harness and saddlery.
12. Hides of all kinds, dry or wet; pigskins, raw or dressed; leather, undressed or dressed, suitable for saddlery, harness, or military boots.
13. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

I here print the compilation of articles scheduled as contraband, both absolute and conditional, as compiled to November 5, 1915. It will be noted that 80 per cent of the articles are absolute. It shows the possible intention of elimination of the conditional class completely:

Contraband of war.

ABSOLUTE CONTRABAND.

[Articles printed in *italics* have been varied or withdrawn by later proclamations.]

A Number of article in this list.	B Article.	C References and notes.	D Date of the proclamation first declaring article absolute contraband.	E Number of paragraph of Schedule I in proclamation in column D.	F Date of proclamation under which article is now absolute contraband.	G Number of paragraph of Schedule I in proclamation in column F.
1	Acetate, calcium, *and all other metallic acetates*	*Words in italics omitted May 27, 1915. See also No. 2.*	Dec. 23, 1914	4	Oct. 14, 1915	8
2	Acetates		Oct. 14, 1915	8	do	8
3	Acetic acid		do	8	do	8
4	Acetic ether		do	8	do	8
5	Acetone		Dec. 23, 1914	4	do	8
6	Acids:					
7	Acetic		Oct. 14, 1915	8	do	8
8	Carbolic (phenol) and its mixtures and derivatives	See No. 65	do	8	do	8
9	Fuming sulphuric (oleum)		do	8	do	9
10	Hydrochloric		do	9	do	8
11	Nitric		Dec. 23, 1914	4	do	
12	Sulphuric		Oct. 29, 1914	4	do	8
13	Aeroplanes and their component parts, etc	See No. 15	Aug. 4, 1914	11	do	25
14	*Aircraft of all kinds and their component parts, together with accessories and articles recognizable as intended for use in connection with balloons and aircraft.*	*See No. 15*	*Aug. 4, 1914*	*11*	do	25
15	Aircraft of all kinds, including aeroplanes, airships, balloons and their component parts, together with accessories and articles suitable for use in connection with aircraft.	See No. 14	Oct. 14, 1915	25	do	25
16	Airships and their component parts, etc	See No. 15	Aug. 4, 1914	11	do	25
17	Alcohol, ethyl		Oct. 14, 1915	8	do	8
18	Alcohol, methyl		do	8	do	8
19	Alumina		Dec. 23, 1914	16	do	35
20	Aluminum		Oct. 29, 1914	18	do	35
21	Aluminum, salts of		Dec. 23, 1914	16	do	35
22	Alundum (corundum, natural and artificial, in all forms)		Oct. 14, 1915	4	do	4
23	*Ammonia and its salts, whether simple or compound*	*Varied Oct. 14, 1915. See Nos. 24 and 27.*	*Mar. 11, 1915*		do	8
24	Ammonia liquor		Mar. 11, 1915		do	8
25	*Ammonium nitrate*	*Included in "Nitrates," Oct. 14, 1915.*	*Dec. 23, 1914*	*4*	do	8
26	*Ammonium perchlorate*	*Included in No. 27, Oct. 14, 1915.*	*Dec. 23, 1914*	*4*	do	8
27	*Ammonium salts*		Oct. 14, 1915	8	do	8
28	*Aniline*	*See Nos. 29 and 30*	*Dec. 23, 1914*	*4*	do	8

Contraband of war—Continued.

ABSOLUTE CONTRABAND—continued.

A Number of article in this list.	B Article.	C References and notes.	D Date of the proclamation first declaring article absolute contraband.	E Number of paragraph of Schedule I in proclamation in column D.	F Date of proclamation under which article is now absolute contraband.	G Number of paragraph of Schedule I in proclamation in column F.
29	*Aniline and its compounds*	*See No. 30*	*Mar. 11, 1915*			
30	Aniline and its derivatives		Oct. 14, 1915	8	Oct. 14, 1915	8
31	*Animals, saddle, draft, and pack, suitable for use in war*	*See No. 32*	*Aug. 4, 1914*	7	do	15
32	Animals, saddle, draft, and pack, suitable, or which may become suitable, for use in war.		Oct. 14, 1915	15	do	15
33	Animal hair of all kinds, and tops, noils and yarns of animal hair	See "Wool"	do	19	do	19
34	Antimony, together with the sulphides and oxides of antimony		Dec. 23, 1914	17	do	36
35	Apparatus and implements designed exclusively for the manufacture of munitions of war, or for the manufacture or repair of arms or of war material for use on land or sea.	See also No. 151	Aug. 4, 1914	12	do	2
36	Apparatus, submarine sound-signaling		Dec. 23, 1914	22	do	23
37	Armor plates		Aug. 4, 1914	9	do	24
38	Arms of all kinds, including arms for sporting purposes, and their *distinctive* component parts.	*"Distinctive" omitted Oct. 14, 1915.*	do	1	do	1
39	Arms, implements and apparatus designed exclusively for the manufacture or repair of.	See No. 35	do	12	do	2
40	Arsenic and its compounds		Oct. 14, 1915	9	do	9
41	Arsenical ore		do	41	do	41
42	Asbestos		do	34	do	34
43	Balata, any preparations containing	See "Rubber"	do	30	do	30
44	Balloons and their component parts, etc	See No. 15	Aug. 4, 1914	11	do	25
45	Barbed wire and the implements for fixing and cutting the same		Oct. 29, 1914	20	do	12
46	Barium chlorate		Dec. 23, 1914	4	do	8
47	Barium perchlorate		Oct. 14, 1915	8	do	8
48	Bauxite		Dec. 23, 1914	15	do	41
49	Belting, leather		Oct. 14, 1915	17	do	17
50	Benzine		do	28	do	28
51	*Benzol*	*See Nos. 52, 84*	*Dec. 23, 1914*	4	do	8
52	Benzol and its mixtures and derivatives	See No. 84	Oct. 14, 1915	8	do	8
53	Boats and their *distinctive* component parts of such a nature that they can only be used on a vessel of war.	See No. 283: *"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	10	do	22
54	Borneo rubber	See "Rubber"	Oct. 14, 1915	30	do	30
55	Bromine		do	9	do	9
56	Buffaloes, hides of		Mar. 11, 1915		do	17
57	Calcium acetate *and all other metallic acetates*	*Words in italics omitted May 27, 1915; "acetates" inserted Oct. 14, 1915.*	Dec. 23, 1914	4	do	8

58	Calcium carbide		Oct. 14, 1915	8	do	8
59	Calcium nitrate		Dec. 23, 1914	4	do	8
60	Calves, skins of		Mar. 11, 1915		do	17
61	Camp equipment, articles of, and their *distinctive* component parts	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	8	do	11
62	Camphor (oil and spirit)		Dec. 23, 1914	5	do	29
63	Caoutchouc, all substances containing	See "Rubber"	Oct. 14, 1915	30	do	30
64	Capsicum and peppers		do	10	do	10
65	Carbolic acid (phenol and its mixtures and derivatives)	Included in *"Coal tar products," Dec. 23, 1914.*	do	8	do	8
66	Carbon disulphide		do	9	do	9
67	Carbonyl chloride (phosgene)		do	9	do	9
68	Carborundum, in all forms		do	4	do	4
69	Cartridges of all kinds and their *distinctive* component parts	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	2	do	5
70	*Castor oil*	*Included in "Lubricants," Oct. 14, 1915.*	*Mar. 11, 1915*		do	32
71	Cattle, hides of		Mar. 11, 1915		do	17
72	Caustic potash		Oct. 14, 1915	8	do	8
73	Caustic soda		do	8	do	8
74	Celluloid		do	8	do	8
75	Charges of all kinds and their *distinctive* component parts	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	2	do	5
76	Chlorate, barium		Dec. 23, 1914	4	do	8
77	*Chlorate, potassium*	*Included in "Potassium salts," Oct. 14, 1915.*	*Dec. 23, 1914*	4	do	8
78	Chlorate, sodium		Dec. 23, 1914	4	do	8
79	Chloride, carbonyl (phosgene)		Oct. 14, 1915	9	do	9
80	Chloride of tin		Mar. 11, 1915		do	39
81	Chlorine		Oct. 14, 1915	9	do	9
82	Chrome ore		Oct. 29, 1914	15	do	41
83	Clothing of a distinctively military character		Aug. 4, 1914	5	do	14
84	*Coal tar, the fractions of the distillation products of, between benzol and cresol, inclusive.*	*See also No. 268. Varied Oct. 14, 1915, when certain of the products are specified, viz:* Benzol, toluol, xylol, solvent naphtha, phenol (carbolic acid), cresol, naphthalene, their mixtures and derivatives; aniline and its derivatives.	*Dec. 23, 1914*	4		
85	*Coal tar, toluol, and mixtures of toluol derived from*	*See Nos. 268 and 269. Varied Oct. 14, 1915.*	*May 27, 1915*		*Oct. 14, 1915*	8
86	Cobalt		Dec. 23, 1914	14	do	33
87	*Copper, unwrought*	*See No. 88*	*Oct. 29, 1914*	*16*	do	37
88	Copper, unwrought and part wrought, and copper wire	*See No. 89*	Dec. 23, 1914	18	do	37
89	Copper, alloys and compounds of		Oct. 14, 1915	37	do	37
90	*Copper iodide*	*Included in "Iodine and its compounds," Oct. 14, 1915.*	*Mar. 11, 1915*		do	9
91	Copper ores		Oct. 14, 1915	41	do	41
92	Copper pyrites		do	41	do	41
93	Corundum, natural and artificial (alundum), in all forms		do	4	do	4

Contraband of war—Continued.

ABSOLUTE CONTRABAND—continued.

A Number of article in this list.	B Article.	C References and notes.	D Date of the proclamation first declaring article absolute contraband.	E Number of paragraph of Schedule I in proclamation in column D.	F Date of proclamation under which article is now absolute contraband.	G Number of paragraph of Schedule I in proclamation in column F.
94	Cotton, raw, linters, cotton waste, and cotton yarns	See No. 95	Aug. 20, 1915	.....	Oct. 14, 1915	20
95	Cotton piece goods and other cotton products capable of being used in the manufacture of explosives.		Oct. 14, 1915	20	.....do.....	20
96	*Cresol*	*See Nos. 84 and 97*	*Dec. 23, 1914*	4	.....do.....	8
97	Cresol and its mixtures and derivatives	See No. 84	Oct. 14, 1915	8	.....do.....	8
98	Cyanamide		Dec. 23, 1914	4	.....do.....	8
99	Cyanide, sodium		Oct. 14, 1915	9	.....do.....	9
100	Cycles, tires for	See No. 275	Dec. 23, 1914	25	.....do.....	27
101	Deer, skins of		Mar. 11, 1915	.....	.....do.....	17
102	*Dimethylaniline*	*Included in "Aniline and its derivatives," Oct. 14, 1915.*	*Dec. 23, 1914*	4	.....do.....	8
103	Dioxide, manganese		Oct. 14, 1915	9	.....do.....	9
104	Dioxide, sulphur		.....do.....	9	.....do.....	9
105	Disulphide, carbon		.....do.....	9	.....do.....	9
106	Electrolytic iron		.....do.....	33	.....do.....	33
107	Emery in all forms		.....do.....	4	.....do.....	4
108	Equipment of a distinctively military character		Aug. 4, 1914	5	.....do.....	14
109	Equipment, articles of camp, and their *distinctive* component parts	*"Distinctive" omitted Oct. 14, 1915.*	.....do.....	8	.....do.....	11
110	Ether		Oct. 14, 1915	8	.....do.....	8
111	Ether, acetic		.....do.....	8	.....do.....	8
112	Ethyl alcohol		.....do.....	8	.....do.....	8
113	*Explosives, ingredients of, viz:* Nitric acid, sulphuric acid, glycerine, acetone, calcium acetate, *and all other metallic acetates, sulphur, potassium nitrate, fractions of the distillation products of coal tar between benzol and cresol, inclusive,* aniline, *methylaniline, dimethylaniline, ammonium, perchlorate,* sodium perchlorate, sodium chlorate, barium chlorate, *ammonium nitrate,* cyanamide, *potassium chlorate,* calcium nitrate, mercury.	*See No. 114.* Refer to each ingredient for date when first declared contraband.	*Dec. 23, 1914*	4	.....	.....
114	Explosives, materials used in the manufacture of, including: Nitric acid and nitrates of all kinds: sulphuric acid; fuming sulphuric acid (oleum); acetic acid and acetates; barium chlorate and perchlorate; calcium acetate, nitrate, and carbide; potassium salts and caustic potash; ammonium salts and ammonia liquor; caustic soda, sodium chlorate and perchlorate; mercury; benzol, toluol, xylol, solvent naptha, phenol (carbolic acid), cresol, naphthalene, and their mixtures and derivatives; aniline, and its derivatives; glycerine; acetone; acetic ether; ethyl alcohol; methyl alcohol; ether; sulphur; urea; cyanamide; celluloid.	See also No. 115. Refer to each material for date when first declared contraband.	Oct. 14, 1915	8	Oct. 14, 1915	8

115	Explosives, the following forms of cotton capable of being used in the manufacture of, viz: Raw cotton, linters, cotton waste, cotton yarns, cotton piece goods, and other cotton products.	Refer to Nos. 94 and 95 for date when first declared contraband.	.....do.....	20	.....do.....	40
116	Explosives specially prepared for use in war		Aug. 4, 1914	3	.....do.....	7
117	Ferroalloys, including ferrotungsten, ferromolybdenum, ferromanganese, ferrovanadium, and ferrochrome.	Refer to each alloy for date when first declared contraband.	Dec. 23, 1914	13	.....do.....	40
118	Ferrochrome		Oct. 29, 1914	15	.....do.....	40
119	Ferromanganese		Dec. 23, 1914	13	.....do.....	40
120	Ferromolybdenum		.....do.....	13	.....do.....	40
121	*Ferrosilica*	*Not specified in later proclamations.*	*Oct. 29, 1914*	19	.....	.....
122	Ferrotungsten		Dec. 23, 1914	13	.....do.....	20
123	Ferrovanadium		.....do.....	13	.....do.....	40
124	Field forges and their *distinctive* component parts	*"Distinctive" omitted Oct. 14, 1915*	Aug. 4, 1914	4	.....do.....	11
125	Flax		Oct. 14, 1915	21	.....do.....	21
126	Fuming sulphuric acid (oleum)		.....do.....	8	.....do.....	8
127	Glycerine		Dec. 23, 1914	4	.....do.....	8
128	Goats, skins of		Mar. 11, 1915	.....	.....do.....	17
129	Guayule rubber	See *"Rubber"*	Oct. 14, 1915	30	.....do.....	30
130	Gun mountings and their *distinctive* component parts	*"Distinctive" omitted Oct. 14, 1915*	Aug. 4, 1914	4	.....do.....	11
131	Gutta-percha, any preparations containing	See "Rubber"	Oct. 14, 1915	30	.....do.....	30
132	Hematite iron ore		Oct. 29, 1914	12	.....do.....	41
133	Hematite pig iron		.....do.....	12	.....do.....	33
134	Hair, animal, of all kinds, and tops, noils and yarns of animal hair	See "Wool"	Oct. 14, 1915	19	.....do.....	19
135	Harness, all kinds of, of a distinctively military character		Aug. 4, 1914	6	.....do.....	16
136	Hemp		Oct. 14, 1915	21	.....do.....	21
137	Hides of cattle, buffaloes, and horses		Mar. 11, 1915	.....	.....do.....	17
138	Horses, hides of		.....do.....	.....	.....do.....	17
139	Hydraulic leather		Oct. 14, 1915	17	.....do.....	17
140	Hydrochloric acid		.....do.....	9	.....do.....	9
141	Implements and apparatus designed exclusively for the manufacture of munitions of war, or for the manufacture or repair of arms or of war material for use on land or sea.	See also No. 151	Aug. 4, 1914	12	.....do.....	2
142	Implements, the, for fixing and cutting barbed wire		Oct. 29, 1914	20	.....do.....	12
143	*Iodide, copper*	*Included in No. 144, Oct. 14, 1915.*	*Mar. 11, 1915*	.....	.....do.....	9
144	Iodine and its compounds		Oct. 14, 1915	9	.....do.....	9
145	Iron, electrolytic		.....do.....	33	.....do.....	33
146	Iro ore, hematite		Oct. 29, 1914	12	.....do.....	41
147	Iron, hematite pig		.....do.....	12	.....do.....	33
148	Iron pyrites		.....do.....	13	.....do.....	41
149	Jelutong rubber	See "Rubber"	Oct. 14, 1915	30	.....do.....	30
150	Kapok		.....do.....	21	.....do.....	21
151	Lathes and other machines or machine tools capable of being employed in the manufacture of munitions of war.	See also No. 141	May 27, 1915	.....	.....do.....	3
152	Lead, pig, sheet, or pipe		Oct. 29, 1914	17	.....do.....	38
153	Lead ore		Dec. 23, 1914	15	.....do	41
154	Leather, undressed or dressed, suitable for saddlery, harness, military boots, or military clothing.	See No. 155	Mar. 11, 1915	.....	.....do.....	17
155	Leather belting, hydraulic leather, and pump leather		Oct. 14, 1915	17	.....do.....	17
156	Limbers and their *distinctive* component parts	*"Distinctive" omitted Oct. 14, 1915*	Aug. 4, 1914	4	.....do.....	11
157	Limber boxes and their *distinctive* component parts	.....do.....	.....do.....	4	.....do.....	11
158	Linters, cotton		Aug. 20, 1915	.....	.....do.....	20

Contraband of war—Continued.

ABSOLUTE CONTRABAND—continued.

A Number of article in this list.	B Article.	C References and notes.	D Date of the proclamation first declaring article absolute contraband.	E Number of paragraph of Schedule I in proclamation in column D.	F Date of proclamation under which article is now absolute contraband.	G Number of paragraph of Schedule I in proclamation in column F.
159	Lubricants		Mar. 11, 1915	14	Oct. 14, 1915	32
160	Machines capable of being employed in the manufacture of munitions of war	See No. 151	May 27, 1915		do	3
161	Machine tools capable of being employed in the manufacture of munitions of war	do	do		do	3
162	Manganese		Dec. 23, 1914	14	do	33
163	Manganese dioxide		Oct. 14, 1915	9	do	9
164	Manganese ore		Dec. 23, 1914	15	do	41
165	Maps and plans of any place within the territory of any belligerent, or within the area of military operations, on a scale of 4 miles to 1 inch or any larger scale, and reproductions on any scale, by photography or otherwise, of such maps or plans.		May 27, 1915		do	42
166	Mercury		Dec. 23, 1914	4	do	8
167	*Metallic acetates, all*	*Varied May 27, 1915. See No. 57.* "Acetates" specified Oct. 14, 1915.	*Dec. 23, 1914*	4	do	
168	Metals, the following: Tungsten, molybdenum, vanadium, nickel, selenium, cobalt, hematite, pig iron, manganese.	Refer to each metal for date when first declared contraband.	Dec. 14, 1914		do	33
	Sodium, electrolytic iron, and steel containing molybdenum	Added to the above	Oct. 14, 1915	33	do	33
169	Methyl alcohol		do	8	do	8
170	*Methylaniline*	*Included in "Aniline and its derivatives," Oct. 14, 1915.*	*Dec. 23, 1914*	4	do	8
171	Military wagons and their *distinctive* component parts	"Distinctive" omitted Oct. 14, 1915.	Aug. 4, 1914	4	do	11
172	*Mineral oils and motor spirit, except lubricating oils*	*Lubricants made absolute contraband Mar. 11, 1915. Further varied Oct. 14, 1915. See No. 173.*	*Oct. 29, 1914*	25	do	28
173	Mineral oils, including benzine and motor spirit		Oct. 14, 1915	28	do	28
174	Molybdenite		Dec. 23, 1914	15	do	41
175	Molybdenum		do	14	do	33
176	Molybdenum, steel containing		Oct. 14, 1915	33	do	33
177	Motor spirit		Oct. 29, 1914	25	do	28
178	Motor tires	See also No. 275	do	24	do	27
179	Motor vehicles of all kinds and their component parts		do	23	do	26
180	Munitions of war, implements and apparatus designed exclusively for the manufacture of.	See No. 141	Aug. 4, 1914	12	do	2
181	Munitions of war, lathes and other machines or machine tools capable of being employed in the manufacture of.	See also No. 141	May 27, 1915		do	3

182	Naphtha, solvent, and its mixtures and derivatives	Included in "*Coal-tar products*," *Dec. 23, 1914.*	Oct. 14, 1915	8	.....do.....	8
183	Naphtha'ene, and its mixtures and derivatives	.....do.....	.....do.....	8	.....do.....	8
184	Nickel		Oct. 29, 1914	14	.....do.....	33
185	Nickel ore		.....do.....	14	.....do.....	41
186	Nitrates of all kinds		Oct. 14, 1915	8	.....do.....	8
187	*Nitrate, ammonium*	*Included in No. 186, Oct. 14, 1915.*	*Dec. 23, 1914*	4	.....do.....	8
188	Nitrate, calcium		Dec. 23, 1914	4	.....do.....	8
189	*Nitrate, potassium*	*Included in No. 186, Oct. 14, 1915.*	*Dec. 23, 1914*	4	.....do.....	8
190	Nitric acid		Dec. 23, 1914	4	.....do.....	2
191	Noils of animal hair	See "Wool"	Oct. 14, 1915	19	.....do.....	19
192	Noils, wool	.....do.....	Mar. 11, 1915	.....	.....do.....	19
193	Oil, camphor		Dec. 23, 1914	5	.....do.....	29
194	*Oil, castor*	*Included in "Lubricants," Oct. 14, 1915.*	*Mar. 11, 1915*	.....	.....do.....	32
195	*Oils, mineral, except lubricating oils*	*Lubricants made absolute contraband Mar. 11, 1915. Further varied Oct. 14, 1915; see No. 196.*	*Oct. 29, 1914*	*25*	.....do.....	28
196	Oils, mineral, including benzine and motor spirit		Oct. 14, 1915	28	.....do.....	28
197	Oil, turpentine		Dec. 23, 1914	5	.....do.....	29
198	Oil, wood-tar		Oct. 14, 1915	29	.....do.....	29
199	Oleum (fuming sulphuric acid)		.....do.....	8	.....do.....	8
200	Ores, the following: Wolframite, scheelite, molybdenite, manganese ore, nickel ore, chrome ore, hematite iron ore, zinc ore, lead ore, bauxite.		Dec. 23, 1914	15	.....do.....	41
	Iron pyrites, copper pyrites, and other copper ores, arsenical ore	Refer to each ore for date when first declared contraband. Added to the above	Oct. 14, 1915	41	.....do.....	41
201	Ore, tin		Mar. 11, 1915	.....	.....do.....	39
202	Oxides of antimony, the		Dec. 23, 1914	17	.....do.....	36
203	Palembang rubber	See "Rubber"	Oct. 14, 1915	30	.....do.....	30
204	Paraffin wax		Mar. 11, 1915	.....	.....do.....	6
205	Peppers		Oct. 14, 1915	10	.....do.....	10
206	*Perchlorate, ammonium*	*Included in "Ammonium salts," Oct. 14, 1915.*	*Dec. 23, 1914*	4	.....do.....	8
207	Perchlorate, barium		Oct. 14, 1915	8	.....do.....	8
208	Perchlorate, sodium		Dec. 23, 1914	4	.....do.....	8
209	*Petroleum, toluol and mixtures of toluol derived from*	*See No. 263. Varied Oct. 14, 1915.*	*May 27, 1915*	.....	.....do.....	8
210	Pheno. (carbo ic acid) and its mixtures and derivatives	*Included in "Coal-tar products," Dec. 23, 1914.*	Oct. 14, 1915	8	.....do.....	8
211	Phosgene (carbonyl chloride)		.....do.....	9	.....do.....	9
212	Phosphorus		.....do.....	9	.....do.....	9
213	Pig iron, hematite		Oct. 29, 1914	12	.....do.....	33
214	Pigs, skins of		Mar. 11, 1915	.....	.....do.....	17
215	Plans (see Maps)		May 27, 1915	.....	.....do.....	42
216	Pontianac rubber	See "Rubber"	Oct. 14, 1915	30	.....do.....	30
217	Potash, caustic		.....do.....	8	.....do.....	8
218	*Potassium chlorate*	*Included in No. 220, Oct. 14, 1915.*	*Dec. 23, 1914*	4	.....do.....	8
219	*Potassium nitrate*	*Included in "Nitrates," Oct. 14, 1915.*	*Dec. 23, 1914*	4	.....do.....	8
220	Potassium salts		Oct. 14, 1915	8	.....do.....	8
221	Powder and explosives specially prepared for use in war		Aug. 4, 1914	3	.....do.....	7
222	Projectiles of all kinds and their *distinctive* component parts	"*Distinctive*" *omitted Oct. 14, 1915.*	.....do.....	2	.....do.....	5

Contraband of war—Continued.

ABSOLUTE CONTRABAND—continued.

A Number of article in this list.	B Article.	C References and notes.	D Date of the proclamation first declaring article absolute contraband.	E Number of paragraph of Schedule I in proclamation in column D.	F Date of proclamation under which article is now absolute contraband.	G Number of paragraph of Schedule I in proclamation in column F.
223	Prussiate of soda		Oct. 14, 1915	9	Oct. 14, 1915	9
224	Pump leather		do	17	do	17
225	Pyrites, copper, and other copper ores		do	41	do	41
226	Pyrites, iron		Oct. 29, 1914	13	do	41
227	Quebracho wood		Oct. 14, 1915	18	do	18
228	Ramie		do	21	do	21
229	Range finders and their *distinctive* component parts	*"Distinctive" omitted Oct. 14, 1915.*	Oct. 29, 1914	6	do	13
230	Rattans		Oct. 14, 1915	31	do	31
231	Resinous products, camphor and turpentine (oil and spirits)		Dec. 33, 1914	5	do	29
	Wood tar and wood-tar oil	Added to the above	Oct. 14, 1915	29		
232	*Rubber*	*See No. 233*	*Oct. 29, 1914*	*24*	do	30
233	*Rubber (including raw, waste, and reclaimed rubber), and goods made wholly of rubber*	*See No. 234*	*Dec. 23, 1914*	*25*	do	30
234	Rubber (including raw, waste, and reclaimed rubber, solutions and jellies containing rubber, or any other preparations containing rubber, balata, and gutta-percha, and the following vrrieties of rubber, viz: Borneo, Guayule, Jelutong, Palembang, Pontianac, and all other substances containing caoutchouc, and goods made wholly or partly of rubber.		Oct. 14, 1915	30	do	30
235	Salts of aluminium		Dec. 23, 1914	16	do	25
236	*Salts, ammonia and its, whether simple or compound*	*Varied Oct. 14, 1915. See Nos. 237 and 24.*	*Mar. 11, 1915*		do	8
237	Salts, ammonium		Oct. 14, 1915	8	do	8
238	Salts, potassium		do	8	do	8
239	Scheelite		Dec. 23, 1914	15	do	41
240	Searchlights and their component parts		Oct. 14, 1915	13	do	13
241	Selenium		Dec. 23, 1914	14	do	33
242	Sheep, skins of		Mar. 11, 1915		do	17
243	Signaling apparatus submarine sound		Dec. 23, 1914	22	do	23
244	Skins of calves, pigs, sheep, goats, and deer		Mar. 11, 1915		do	17
245	Soda, caustic		Oct. 14, 1915	8	do	8
246	Soda, prussiate of		do	9	do	9
247	Sodium		do	33	do	33
248	Sodium chlorate		Dec. 23, 1914	4	do	8
249	Sodium cyanide		Oct. 14, 1915	9	do	9
250	Sodium perchlorate		Dec. 23, 1914	4	do	8

251	Solvent naphtha and its mixtures and derivatives	Included in "*Coal-tar products*" *Dec. 23, 1914.*	Oct. 14, 1915	8	do	8
252	Spirit, camphor		Dec. 23, 1914	5	do	29
253	Spirit, motor		Oct. 29, 1914	25	do	28
254	Spirit, turpentine		Dec. 23, 1914	5	do	29
255	Steel containing tungsten or molybdenum		Oct. 14, 1915	33	do	33
256	Submarine sound-signaling apparatus		Dec. 23, 1914	22	do	23
257	Sulphides of antimony, the		do	17	do	36
258	Sulphur		do	4	do	8
259	Sulphur Dioxide		Oct. 14, 1915	9	do	9
260	Sulphuric acid		Oct. 29, 1914	4	do	8
261	Sulphuric acid, fuming (oleum)		Oct. 14, 1915	8	do	8
262	Tanning substances of all kinds, including quebracho wood and extracts for use in tanning.		do	18	do	18
263	*Tar, coal.* (*See under "Coal tar and toluol."*)					
264	Tar, wood and wood-tar oil		do	29	do	29
265	Tin		Mar. 11, 1915		do	39
266	Tin, chloride of		do		do	39
267	Tin ore		do		do	39
268	*Toluol, and mixtures of toluol, whether derived from coal tar, petroleum, or any other source.*	*See No. 269 and also No. 84.*	*May 27, 1915*		do	8
269	Toluol and its mixtures and derivatives	See No. 268	Oct. 14, 1915	8	do	8
270	Tops of animal hair	See "Wool"	do	19	do	19
271	Tops, wool		Mar. 11, 1915		do	19
272	Tungsten		Dec. 23, 1914	14	do	33
273	Tungsten, steel containing		Oct. 14, 1915	33	do	33
274	Turpentine (oil and spirit)		Dec. 23, 1914	5	do	29
275	Tires for motor vehicles and cycles, together with articles or materials especially adapted for use in the manufacture or repair of tires.		do	25	do	27
276	*Tires, motor*	*See No. 275*	*Oct. 29, 1914*	24	do	27
277	Urea *and its compounds*	*Words in italics omitted Oct. 14, 1915.*	Mar. 11, 1915		do	8
278	Vanadium		Dec. 23, 1914	14	do	38
279	Vehicles, motor, of all kinds and their component parts		Oct. 29, 1914	23	do	26
280	Vehicles, tires for motor	See No. 275	Dec. 23, 1914	25	do	27
281	Wagons, military, and their *distinctive* component parts	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	4	do	11
282	War material for use on land or sea, implements and apparatus designed exclusively for the manufacture or repair of.	See No. 141	do	12	do	2
283	Warships, including boats and their *distinctive* component parts of such a nature that they can only be used on a vessel of war.	*"Distinctive" omitted Oct. 14, 1915.*	do		do	22
284	Waste, cotton		Aug. 20, 1915		do	20
285	Waste, rubber		Oct. 14, 1915	30	do	30
286	Waste, wool		do	19	do	19
287	Wax, paraffin		Mar. 11, 1915		do	6
288	Wire, barbed, and the implements for fixing and cutting the same		Oct. 29, 1914	20	do	12
289	Wire, copper		Dec. 23, 1914	18	do	37
290	Wolframite		do	15	do	41
291	Wood, quebracho		Oct. 14, 1915	18	do	18
292	Wood, tar and wood-tar oil		do	29	do	29
293	*Wool, raw, wool tops and noils and woolen and worsted yarns*	*See No. 294*	*Mar. 11, 1915*		do	19

Contraband of war—Continued.

ABSOLUTE CONTRABAND—continued.

A Number of article in this list.	B Article.	C References and notes.	D Date of the proclamation first declaring article absolute contraband.	E Number of paragraph of Schedule I in proclamation in column D.	F Date of proclamation under which article is now conditional contraband.	G Number of paragraph of Schedule I in proclamation in column F.
294	Wool, raw, combed or carded; wool waste; wool tops and noils; woolen or worsted yarns; animal hair of all kinds, and tops, noils and yarns of animal hair.	See No. 293	Oct. 14, 1915	19	Oct. 14, 1915	19
295	Yarns of animal hair		do	19	do	19
296	Yarns, cotton		Aug. 20, 1915		do	20
297	Yarns, woolen or worsted		Mar. 11, 1915		do	19
298	Zinc ore		Dec. 23, 1914	15	do	41
299	Xylol, and its mixtures and derivatives	*Included in "Coal-tar products," Dec. 23, 1914.*	Oct. 14, 1915	8	do	8

Contraband of war—Continued.

CONDITIONAL CONTRABAND.

[Articles printed in *italics* have been varied or withdrawn by later proclamation.]

A Number of article in this list.	B Articles.	C References and notes.	D Date of proclamation first declaring article conditional contraband.	E Number of paragraph of Schedule II in proclamation in column D.	F Date of proclamation under which article is now conditional contraband.	G Number of paragraph of Schedule II in proclamation in column F.
1	*Barbed wire, and implements fixing and cutting the same*	*Made absolute contraband Oct. 29, 1914.*	*Aug. 4, 1914*	*10*	.....	.....
2	Boats of all kinds	See No. 283 of absolute contraband.	Aug. 4, 1914	6	Oct. 14, 1915	12
3	Boots and shoes, if suitable for use in war	.....	.....do.....	3	.....do.....	9
4	Bullion, gold or silver	.....	.....do.....	4	.....do.....	14
5	*Cakes and meals made from oleaginous seeds, nuts, and kernels*	*See No. 21; included in "Feeding stuffs for animals" Oct. 14, 1915.*	*Mar. 11, 1915*	.....	.....do.....	2
6	Chronometers	.....	Aug. 4, 1914	13	.....do.....	13
7	Clothing and fabrics for clothing, if suitable for use in war	.....	.....do.....	3	.....do.....	9
8	Coin, gold or silver; paper money	.....	.....do.....	4	.....do.....	14
9	*Copper, unwrought*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....
10	Craft of all kinds	See No. 283 of absolute contraband.	Aug. 4, 1914	6	Oct. 14, 1915	12
11	Docks, floating, and their component parts	.....	.....do.....	6	.....do.....	12
12	Docks, parts of	.....	.....do.....	6	.....do.....	12
13	Explosives not specially prepared for use in war	.....	.....do.....	9	.....do.....	9
14	Fabrics for clothing, if suitable for use in war	.....	.....do.....	3	.....do.....	9
15	*Fats, animal and vegetable (other than linseed oil), suitable for use in the manufacture of margarine.*	*Linseed oil made conditional contraband May 27, 1915. Varied Oct. 14, 1915. See No. 16.*	*Mar. 11, 1915*	.....	.....	.....
16	Fats, animal, fish, and vegetable, other than those capable of use as lubricants	See No. 52	Oct. 14, 1915	4	Oct. 14, 1915	4
17	Feeding stuffs for animals	*See No. 21*	*Oct. 29, 1914	2	.....do.....	2
18	*Ferrochrome*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....
19	Field glasses	.....	Aug. 4, 1914	13	Oct. 14, 1915	13
20	Floating docks and their component parts; parts of docks	.....	.....do.....	6	.....do.....	12
21	Foodstuffs	.....	.....do.....	1	.....do.....	1
	The terms "foodstuffs" and "feeding stuffs for animals" declared to include oleaginous seeds, nuts, and kernels; animal and vegetable oils and fats (other than linseed oil) suitable for use in the manufacture of margarine; and cakes and meals made from oleaginous seeds, nuts, and kernels.	*This definition not included Oct. 14, 1915.*	*Mar. 11, 1915*	.....	.....	.....

Contraband of war—Continued.

CONDITIONAL CONTRABAND—continued.

A Number of article in this list.	B Article.	C References and notes.	D Date of proclamation first declaring article conditional contraband.	E Number of paragraph of Schedule II in proclamation in column D.	F Date of proclamation under which article is now conditional contraband.	G Number of paragraph of Schedule II in proclamation in column F.
22	*Forage and grain suitable for feeding animals*	*Varied on Oct. 29, 1914. See No. 23.*	*Aug. 4, 1914*	*2*	Oct. 14, 1915	2
23	Forage and feeding stuffs for animals	*See No. 21*	Oct. 29, 1914	2	.....do.....	2
24	*Fuel*	*See No. 25*	*Aug. 4, 1914*	*8*	.....	.....
25	Fuel, other than mineral oils		Oct. 29, 1914	8	Oct. 14, 1915	5
26	Furs utilizable for clothing, if suitable for use in war		Oct. 14, 1915	9	.....do.....	9
27	Glasses, field		Aug. 4, 1914	13	.....do.....	13
28	*Glycerin*	*Made absolute contraband Dec. 23, 1914.*	*Sept. 21, 1914*	.....	.....	.....
29	*Grain, suitable for feeding animals*	*Varied on Oct. 29, 1914. See No. 23.*	*Aug. 4, 1914*	*2*	Oct. 14, 1915	2
30	Gold, in coin or bullion		Aug. 4, 1914	4	.....do.....	14
31	*Hematite iron ore*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....
32	Harness and saddlery	See No. 135 of absolute contraband.	Aug. 4, 1914	12	Oct. 14, 1915	8
33	*Hides, raw or rough tanned (but not including dressed leather)*	*Varied Oct. 29, 1914. See Nos. 34 and 42.*	*Sept. 21, 1914*	.....	.....	.....
34	*Hides of all kinds, dry or wet*	*See No. 137 of absolute contraband for certain hides made absolute contraband on Mar. 11, 1915. Hides not included in conditional contraband Oct. 14, 1915.*	*Oct. 29, 1914*	*14*	.....	.....
35	Horseshoes and shoeing materials		Aug. 4, 1914	11	Oct. 14, 1915	7
36	*Implements for fixing and cutting barbed wire*	*Made absolute contraband Oct. 29, 1914.*	*Aug. 4, 1914*	*10*	.....	.....
37	Instruments, all kinds of nautical		Aug. 4, 1914	13	Oct. 14, 1915	13
38	*Iron ore, hematite*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....
39	*Iron ore, magnetic*	*Not specified in later lists*	*Sept. 21, 1914*	.....	.....	.....
40	Kernels, nuts and	*See also No. 5*	Mar. 11, 1915	.....	Oct. 14, 1915	3
41	*Lead, pig, sheet, or pipe*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....

42	*Leather, undressed or dressed, suitable for saddlery, harness, or military boots*	*Made absolute contraband Mar. 11, 1915.*	*Oct. 29, 1914*	*14*		
43	*Linseed oil*	*Included in "Oils, vegetable," Oct. 14, 1915.*	*May 27, 1915*		Oct. 14, 1915	4
44	*Lubricants*	*Made absolute contraband Mar. 11, 1915.*	*Aug. 4, 1914*	*8*		
45	*Magnetic iron ore*	*Not specified in later lists*	*Sept. 21, 1914*			
46	*Meals made from oleaginous seeds, nuts, and kernels*	*See No. 21. Included in "Feeding stuffs for animals" Oct. 14, 1915.*	*Mar. 11, 1915*		Oct. 14, 1915	2
47	Money, paper; gold and silver in coin or bullion		Aug. 4, 1914	14	do	14
48	Nautical instruments, all kinds of		do	13	do	13
49	Nuts and kernels	*See also No. 5*	Mar. 11, 1915		do	3
50	*Oil, linseed*	*Included in "Oils, vegetable," Oct. 14, 1915.*	*May 27, 1915*		do	4
51	*Oils, animal and vegetable (other than linseed oil), suitable for use in the manufacture of margarine.*	*Linseed oil made conditional contraband May 27, 1915. Varied, Oct. 14, 1915. See No. 52.*	*Mar. 11, 1915*			
52	Oils, animal, fish and vegetable, other than those capable of use as lubricants, and not including essential oils.	See No. 16	Oct. 14, 1915	4	Oct. 14, 1915	4
53	Oleaginous seeds	*See also No. 5*	Mar. 11, 1915		do	3
54	*Ore, hematite iron*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*			
55	*Ore, magnetic iron*	*Not specified in later lists*	*Sept. 21, 1914*			
56	Paper money		Aug. 4, 1914	4	Oct. 14, 1915	14
57	*Pigskins, raw or dressed*	*Made absolute contraband Mar. 11, 1915.*	*Oct. 29, 1914*	*14*		
58	Powder and explosives, not specially prepared for use in war		Aug. 4, 1914	9	Oct. 14, 1915	6
59	Railway materials, both fixed and rolling stock		do	7	do	11
60	Rolling stock, railway materials		do	7	do	11
61	*Rubber*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*			
62	Saddlery	See No. 135 of absolute contraband.	Aug. 4, 1914	12	Oct. 14, 1915	8
63	Seeds, oleaginous	*See also No. 5*	Mar. 11, 1915		do	3
64	Shoeing materials		Aug. 4, 1914	11	do	7
65	Shoes, if suitable for use in war		do	3	do	9
66	Silver in coin or bullion		do	4	do	14
67	*Skins, raw or rough tanned (but not including dressed leather)*	*Varied Oct. 29, 1914. See Nos. 42, 68, and 69.*	*Sept. 21, 1914*			
68	*Skins (pig), raw or dressed*	*Made absolute contraband Mar. 11, 1915.*	*Oct. 29, 1914*	*14*		
69	Skins utilizable for clothing, if suitable for use in war	See No. 244 of absolute contraband for certain skins made absolute contraband Mar. 11, 1915.	Oct. 14, 1915	9	Oct. 14, 1915	9
70	*Sulphur*	*Made absolute contraband Dec. 23, 1914.*	*Oct. 29, 1914*	*10*		
71	*Tanning substances of all kinds (including extracts for use in tanning)*	*Made absolute contraband Oct. 14, 1915.*	*Mar. 11, 1915*			

Contraband of war—Continued.

CONDITIONAL CONTRABAND—continued.

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72	Telegraphs, wireless telegraphs, and telephones, materials for		Aug. 4, 1914	7	Oct. 14, 1915	11
73	Telephones, materials for		do	7	do	11
74	Telescopes		do	13	do	13
75	Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.	"Other than motor vehicles" added.	*Aug. 4, 1914* Oct. 28, 1914	*5* 5	Oct. 14, 1915	10
76	Vessels, craft, and boats of all kinds	See No. 283 of absolute contraband.	Aug. 4, 1914	6	do	12
77	*Wire, barbed, and implements for fixing and cutting the same*	*Made absolute contraband Oct. 29, 1914.*	*Aug. 4, 1914*	*10*		
78	Wireless telegraphs, materials for		Aug. 4, 1914	7	Oct. 14, 1915	11

(Consul General Skinner to the Secretary of State.)

[Extract.]

No. 1140.] AMERICAN CONSULATE GENERAL,
London, February 1, 1916.

SIR: I have the honor to acknowledge the receipt of department's instruction. (Not printed.)

I am inclosing herewith a supplement of the London Gazette, No. 29452, issued January 27, 1916, containing the official text of the proclamation referred to in the foregoing.

I have, etc. ROBERT P. SKINNER.

Another revision was published in April, 1916:

[Inclosure.]

LIST OF ARTICLES DECLARED TO BE CONTRABAND OF WAR—PRESENTED TO BOTH HOUSES OF PARLIAMENT BY COMMAND OF HIS MAJESTY, APRIL, 1916.

The articles declared to be contraband of war in the proclamations now in force have been arranged alphabetically in the accompanying list. It is hoped that this will be convenient to all parties concerned.

The list comprises the articles which have been declared to be absolute contraband as well as those which have been declared to be conditional contraband. The circumstances of the present war are so peculiar that His Majesty's Government consider that for practical purposes the distinction between the two classes of contraband has ceased to have any value. So large a proportion of the inhabitants of the enemy country are taking part, directly or indirectly, in the war that no real distinction can now be drawn between the armed forces and the civilian population. Similarly, the enemy Government has taken control, by a series of decrees and orders, of practically all the articles in the list of conditional contraband, so that they are now available for Government use. So long as these exceptional conditions continue our belligerent rights with respect to the two kinds of contraband are the same and our treatment of them must be identical.

FOREIGN OFFICE, *April 13, 1916.*

LIST OF ARTICLES.

Acetic acid and acetates.

Acetic ether.

Acetones, and raw and finished materials usable for their preparation.

Aircraft of all kinds, including aeroplanes, airships, balloons, and their component parts, together with accessories and articles suitable for use in connection with aircraft.

Aluminum, alumina, and salts of aluminum.

Ammonia liquor.

Ammonium salts.

Aniline and its derivatives.

Animals, saddle, draft, or pack, suitable or which may become suitable for use in war.

Antimony, together with the sulphides and oxides of antimony.
Apparatus designed exclusively for the manufacture of munitions of war or for the manufacture or repair of arms or of war material for use on land or sea.
Armor plates.
Arms of all kinds, including arms for sporting purposes, and their component parts.
Arsenic and its compounds.
Arsenical ore.
Articles especially adapted for use in the manufacture or repair of tires.
Asbestos.
Barbed wire.
Barium chlorate and perchlorate.
Bauxite.
Benzol and its mixtures and derivatives.
Bladders, guts, casings, and sausage skins.
Bones in any form, whole or crushed, and bone ash.
Boots and shoes suitable for use in war.
Borax, boric acid, and other boron compounds.
Bromine.
Calcium acetate, calcium nitrate, and calcium carbide.
Camp equipments, articles of, and their component parts.
Camphor.
Capsicum.
Carbon disulphide.
Carbon, halogen compounds of.
Carbonyl chloride.
Carborundum in all forms.
Casein.
Caustic potash and caustic soda.
Celluloid.
Charges and cartridges of all kinds and their component parts.
Chlorides, metallic (except chloride of sodium) and mettaloidic.
Chlorine.
Chrome ore.
Chronometers.
Clothing and fabrics for clothing suitable for use in war.
Clothing of a distinctively military character.
Cobalt.
Copper pyrites and other copper ores.
Copper unwrought and part wrought, copper wire, alloys and compounds of copper.
Cork, including cork dust.
Corundum, natural and artificial (alundum), in all forms.
Cotton (raw), linters, cotton waste, cotton yarns, cotton piece-goods, and other cotton products capable of being used in the manufacture of explosives.
Cresol and its mixtures and derivatives.
Cyanamide.
Docks, parts of.
Emery in all forms.
Equipment of a distinctively military character.

Ethyl alcohol.
Explosives, whether specially prepared for use in war or not.
Ferro alloys, including ferro-tungsten, ferro-molybdenum, ferro-manganese, ferro-vanadium, and ferro-chrome.
Field forges and their component parts.
Field glasses.
Flax.
Floating docks and their component parts.
Foodstuffs.
Forage and feeding stuffs for animals.
Formic ether.
Fuel, other than mineral oils.
Fuming sulphuric acid.
Furs utilizable for clothing suitable for use in war.
Glycerine.
Gold.
Gun mountings and their component parts.
Hair, animal, of all kinds, and tops, noils, and yarns of animal hair.
Harness and saddlery.
Harness of a distinctively military character, all kinds of.
Hemp.
Hides of cattle, buffaloes, and horses.
Horseshoes and shoeing material.
Hydrochloric acid.
Implements designed exclusively for the manufacture of munitions of war or for the manufacture or repair of arms or of war material for use on land or sea.
Implements for fixing and cutting barbed wire.
Iodine and its compounds.
Iron, electrolytic.
Iron, hæmatite and hæmatite iron ore.
Iron pyrites.
Kapok.
Lathes capable of being employed in the manufacture of munitions of war.
Lead and lead ore.
Leather belting, hydraulic leather, pump leather.
Leather, undressed or dressed, suitable for saddlery, harness, military boots, or military clothing.
Limbers and limber boxes and their component parts.
Lubricants.
Machines capable of being employed in the manufacture of munitions of war.
Manganese and manganese ore.
Manganese dioxide.
Maps and plans of any place within the territory of any belligerent, or within the area of military operations, on a scale of 4 miles to 1 inch or any larger scale, and reproductions on any scale, by photography or otherwise, of such maps or plans.
Materials especially adapted for use in the manufacture or repair of tires.
Materials used in the manufacture of explosives.
Mercury.
Methyl alcohol.

Military wagons and their component parts.
Mineral oils, including benzine and motor spirit.
Molybdenum and molybdenite.
Motor vehicles of all kinds and their component parts and accessories.
Naphthalene and its mixtures and derivatives.
Nautical instruments, all kinds of.
Negotiable instruments.
Nickel and nickel ore.
Nitric acid and nitrates of all kinds.
Oils and fats, animal, fish, and vegetable, other than those capable of use as lubricants, and not including essential oils.
Oleaginous seeds, nuts, and kernels.
Oleum.
Paper money.
Paraffin wax.
Peppers.
Phenol (carbolic acid) and its mixtures and derivatives.
Phosphorus and its compounds.
Phosgene.
Potassium salts.
Powders, whether specially prepared for use in war or not.
Projectiles of all kinds and their component parts.
Prussiate of soda.
Railway materials, both fixed and rolling stock.
Ramie.
Range finders and their component parts.
Rattans.
Realizable securities.
Resinous products.
Rubber (including raw, waste, and reclaimed rubber, solutions and jellies containing rubber, or any other preparations containing rubber, balata, and gutta-percha, and the following varieties of rubber, viz, Borneo, Guayule, Jelutong, Palembang, Pontianac, and all other substances containing caoutchouc) and goods made wholly or partly of rubber.
Sabadilla seeds and preparations therefrom.
Scheelite.
Searchlights and their component parts.
Selenium.
Silver.
Skins of calves, pigs, sheep, goats, and deer.
Skins utilizable for clothing suitable for use in war.
Soap.
Sodium.
Sodium chlorate and perchlorate.
Sodium cyanide.
Solvent naphtha and its mixtures and derivatives.
Starch.
Steel containing tungsten or molybdenum.
Submarine sound signaling apparatus.
Sulphur.
Sulphur dioxide.
Sulphuric acid.

Sulphuric ether.
Tanning substances of all kinds, including quebracho wood and extracts for use in tanning.
Telegraphs, materials for.
Telephones, materials for.
Telescopes.
Tin, chloride of tin, and tin ore.
Toluol and its mixtures and derivatives.
Tools capable of being employed in the manufacture of munitions of war.
Tungsten.
Turpentine (oil and spirit).
Tires for motor vehicles and for cycles.
Urea.
Vanadium.
Vegetable fibers and yarns made therefrom.
Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.
Vessels, craft, and boats of all kinds.
Warships, including boats and their component parts of such a nature that they can only be used on a vessel of war.
Wireless telegraphs, materials for.
Wolframite.
Wood tar and wood-tar oil.
Wool, raw, combed, or carded; wool waste; wool tops and noils, woolen or worsted yarns.
Xylol and its mixtures and derivatives.
Zinc ore.

On the 2d of November Great Britain announced the North Sea a military area.

During the last week the Germans have scattered mines indiscriminately in the open sea on the main trade route from America to Liverpool via the north of Ireland.

Peaceful merchant ships have already been blown up, with loss of life, by this agency.

The White Star liner *Olympic* escaped disaster by pure luck and but for warnings given by British cruisers other British and neutral merchant and passenger vessels would have been destroyed.

These mines can not have been laid by any German ship of war. They have been laid by some merchant vessel flying a neutral flag, which has come along the trade route as if for purpose of peaceful commerce, and, while profiting to the full by the immunity enjoyed by neutral merchant ships, has wantonly and recklessly endangered the lives of all who travel on the sea.

In these circumstances, having regard to the great interests intrusted to the British Navy, to the safety of peaceful commerce on the high seas, and to the maintenance within the limits of international law of trade between neutral countries, the Admiralty feels it necessary to adopt exceptional measures appropriate to the novel conditions under which this war is being waged.

It therefore gives notice that the whole of the North Sea must be considered a military area. Within this area merchant shipping of

all kinds, traders of all countries, fishing craft and all other vessels will be exposed to the gravest dangers from mines it has been necessary to lay and from warships searching vigilantly by night and day for suspicious craft.

All merchant and fishing vessels of every description are hereby warned of the dangers they encounter by entering this area, except in strict accordance with Admiralty directions. Every effort will be made to convey this warning to neutral countries and to vessels on the sea, but from November 5 onward the Admiralty announces that all ships passing a line drawn from the northern point of the Hebrides through the Farne Islands to Iceland do so at their own peril.

Ships of all countries wishing to trade to and from Norway, the Baltic, Denmark, and Holland are advised to come, if inward bound, by the English Channel and the Strait of Dover. There they will be given sailing directions which will pass them safely, so far as Great Britain is concerned, up the east coast of England to the Farne Islands, whence a safe route will, if possible, be given to Lindesnas Lighthouse.

From this point they should turn north or south, according to their destination, keeping as near the coast as possible. The converse applies to vessels outward bound.

By strict adherence to these routes the commerce of all countries will be able to reach its destination in safety so far as Great Britain is concerned, but any straying even for a few miles from the course thus indicated may be followed by fatal consequences. (The New York Tribune, Nov. 3, 1914.)

On December 26 our Government addressed her first lengthy note on England's violations of neutral rights.

The note is as follows:

American note, December 26, 1914, in reference to the seizure and detention of American cargoes destined for neutral European ports. (Delivered at London Dec. 28 and published three days later.)

(The Secretary of State to the American ambassador at London:)

The present condition of American foreign trade resulting from the frequent seizures and detentions of American cargoes destined to neutral European ports has become so serious as to require a candid statement of the views of this Government in order that the British Government may be fully informed as to the attitude of the United States toward the policy which has been pursued by the British authorities during the present war.

You will therefore communicate the following to His Majesty's principal secretary of state for foreign affairs, but in so doing you will assure him that it is done in the most friendly spirit and in the belief that frankness will better serve the continuance of cordial relations between the two countries than silence, which may be misconstrued into acquiescence in a course of conduct which this Government can not but consider to be an infringement upon the rights of American citizens.

The Government of the United States has viewed with growing concern the large number of vessels laden with American goods destined to neutral ports in Europe which have been seized on the high seas, taken into British ports, and detained sometimes for weeks by the British authorities. During the early days of the war this Government assumed that the policy adopted by the British Government was due to the unexpected outbreak of hostilities and the necessity of immediate action to prevent contraband from reaching the enemy. For this reason it was not disposed to judge this policy harshly or protest it vigorously, although it was manifestly very injurious to American trade with the neutral countries of Europe. This Government, relying confidently upon the high regard which Great Britain has so often exhibited in the past for the rights of other nations, confidently awaited amendment of a course of action which denied to neutral commerce the freedom to which it was entitled by the law of nations.

This expectation seemed to be rendered the more assured by the statement of the foreign office early in November that the British Government were satisfied with guaranties offered by the Norwegian, Swedish, and Danish Governments as to nonexportation of contraband goods when consigned to named persons in the territories of those Governments, and that orders had been given to the British Fleet and customs authorities to restrict interference with neutral vessels carrying such cargoes so consigned to verification of ship's papers and cargoes.

It is therefore a matter of deep regret that, though nearly five months have passed since the war began, the British Government have not materially changed their policy and do not treat less rigorously ships and cargoes passing between neutral ports in the peaceful pursuit of lawful commerce, which belligerents should protect rather than interrupt. The greater freedom from detention and seizure which was confidently expected to result from consigning shipments to definite consignees rather than "to order" is still awaited.

It is needless to point out to His Majesty's Government, usually the champion of the freedom of the seas and the rights of trade, that peace, not war, is the normal relation between nations and that the commerce between countries which are not belligerents should not be interfered with by those at war unless such interference is manifestly an imperative necessity to protect their national safety, and then only to the extent that it is a necessity. (Sec. 20.) It is with no lack of appreciation of the momentous nature of the present struggle in which Great Britain is engaged and with no selfish desire to gain undue commercial advantage that this Government is reluctantly forced to the conclusion that the present policy of His Majesty's Government toward neutral ships and cargoes exceeds the manifest necessity of a belligerent and constitutes restrictions upon the rights of American citizens on the high seas which are not justified by the rules of international law or required under the principle of self-preservation.

The Government of the United States does not intend at this time to discuss the propriety of including certain articles in the lists of absolute and conditional contraband which have been proclaimed by His Majesty. Open to objection as some of these seem to this Gov-

ernment, the chief ground of present complaint is the treatment of cargoes of both classes of articles when bound to neutral ports.

Articles listed as absolute contraband, shipped from the United States and consigned to neutral countries, have been seized and detained on the ground that the countries to which they were destined have not prohibited the exportation of such articles. Unwarranted as such detentions are, in the opinion of this Government, American exporters are further perplexed by the apparent indecision of the British authorities in applying their own rules to neutral cargoes. For example, a shipment of copper from this country to a specified consignee in Sweden was detained because, as was stated by Great Britain, Sweden had placed no embargo on copper. On the other hand, Italy not only prohibited the export of copper, but, as this Government is informed, put in force a decree that shipments to Italian consignees or "to order" which arrive in ports of Italy can not be exported or transshipped. The only exception Italy makes is of copper which passes through that country in transit to another country. In spite of these decrees, however, the British foreign office has thus far declined to affirm that copper shipments consigned to Italy will not be molested on the high seas. Seizures are so numerous and delays so prolonged that exporters are afraid to send their copper to Italy, steamship lines decline to accept it, and insurers refuse to issue policies upon it. In a word, a legitimate trade is being greatly impaired through uncertainty as to the treatment which it may expect at the hands of the British authorities.

We feel that we are abundantly justified in asking for information as to the manner in which the British Government propose to carry out the policy which they have adopted in order that we may determine the steps necessary to protect our citizens engaged in foreign trade in their rights and from the serious losses to which they are liable through ignorance of the hazards to which their cargoes are exposed.

In case of conditional contraband, the policy of Great Britain appears to this Government to be equally unjustified by the established rules of international conduct. As evidence of this attention is directed to the fact that a number of the American cargoes which have been seized consist of foodstuffs and other articles of common use in all countries which are admittedly relative contraband. In spite of the presumption of innocent use because destined to neutral territory, the British authorities made these seizures and detentions without, so far as we are informed, being in possession of facts which warranted a reasonable belief that the shipments had in reality a belligerent destination, as that term is used in international law. Mere suspicion is not evidence and doubts should be resolved in favor of neutral commerce, not against it. The effect upon trade in these articles between neutral nations resulting from interrupted voyages and detained cargoes is not entirely cured by reimbursement of the owners for the damages which they have suffered after investigation has failed to establish an enemy destination. The injury is to American commerce with neutral countries as a whole through the hazard of the enterprise and the repeated diversion of goods from established markets.

It also appears that cargoes of this character have been seized by the British authorities because of a belief that, though not originally so intended by the shippers, they will ultimately reach the territory of the enemies of Great Britain. Yet this belief is frequently reduced to a mere fear in view of the embargoes which have been decreed by the neutral countries to which they are destined on the articles composing the cargoes.

That a consignment "to order" of articles listed as conditional contraband and shipped to a neutral port raises a legal presumption of enemy destination appears to be directly contrary to the doctrines previously held by Great Britain and thus stated by Lord Salisbury during the South African war:

"Foodstuffs, though having a hostile destination, can be considered as contraband of war only if they are for the enemy's forces; it is not sufficient that they are capable of being so used, it must be shown that this was in fact their destination at the time of their seizure."

With this statement as to conditional contraband the views of this Government are in entire accord, and upon this historic dectrine, consistently maintained by Great Britain when a belligerent as well as a neutral, American shippers were entitled to rely.

The Government of the United States readily admits the full right of a belligerent to visit and search on the high seas the vessels of American citizens or other neutral vessels carrying American goods and to detain them when there is sufficient evidence to justify a belief that contraband articles are in their cargoes; but His Majesty's Government, judging by their own experience in the past, must realize that this Government can not without protest permit American ships or American cargoes to be taken into British ports and there detained for the purpose of searching generally for evidence of contraband or upon presumptions created by special municipal enactments which are clearly at variance with international law and practice.

This Government believes and earnestly hopes His Majesty's Government will come to the same belief; that a course of conduct more in conformity with the rules of international usage, which Great Britain has strongly sanctioned for many years, will in the end better serve the interests of belligerents as well as those of neutrals.

Not only is the situation a critical one to the commercial interests of the United States, but many of the great industries of this country are suffering because their products are denied long-established markets in European countries which, though neutral, are contiguous to the nations at war. Producers and exporters, steamship and insurance companies are pressing, and not without reason, for relief from the menace to trans-Atlantic trade which is gradually but surely destroying their business and threatening them with financial disaster.

The Government of the United States, still relying upon the deep sense of justice of the British nation which has been so often manifested in the intercourse between the two countries during so many years of uninterrupted friendship, expresses confidently the hope that His Majesty's Government will realize the obstacles and difficulties which their present policy has placed in the way of commerce between the United States and the neutral countries of Europe and will instruct its officials to refrain from all unnecessary interference

with the freedom of trade between nations which are sufferers, though not participants in the present conflict, and will in their treatment of neutral ships and cargoes conform more closely to those rules governing the maritime relations between belligerents and neutrals which have received the sanction of the civilized world and which Great Britain has in other wars so strongly and successfully advocated.

In conclusion it should be impressed upon His Majesty's Government that the present condition of American trade with the neutral European countries is such that, if it does not improve, it may arouse a feeling contrary to that which has so long existed between the American and British peoples. Already it is becoming more and more the subject of public criticism and complaint. There is an increasing belief, doubtless not entirely unjustified, that the present British policy toward American trade is responsible for the depression in certain industries which depend upon European markets. The attention of the British Government is called to this possible result of their present policy to show how widespread the effect is upon the industrial life of the United States and to emphasize the importance of removing the cause of complaint.

BRYAN.

On January 7 a tentative reply was made by Great Britain, with a promise that a fuller reply would be made in time. In this reply Grey seized the handle of necessity in the following words:

His Majesty's Government cordially agree in the principle enunciated by the Government of the United States, that a belligerent, in dealing with trade between neutrals, should not interfere unless such interference is necessary to protect the belligerent's national safety, and then only to the extent to which this is a necessity.

(The secretary of state for foreign affairs to the American ambassador.)

YOUR EXCELLENCY: I have the honor to acknowledge receipt of your note of the 28th of December.

It is being carefully examined and the points raised in it are receiving consideration, as the result of which a reply shall be addressed to your excellency dealing in detail with the issues raised and the points to which the United States Government have drawn attention. This consideration and the preparation of the reply will necessarily require some time, and I therefore desire to send without further delay some preliminary observations which will, I trust, help to clear the ground and remove some misconceptions that seem to exist.

Let me say at once that we entirely recognize the most friendly spirit referred to by your excellency and that we desire to reply in the same spirit and in the belief that, as your excellency states, frankness will best serve the continuance of cordial relations between the two countries.

His Majesty's Government cordially concur in the principle enunciated by the Government of the United States that a belligerent, in dealing with trade between neutrals, should not interfere unless such interference is necessary to protect the belligerent's national safety,

and then only to the extent to which this is necessary. We shall endeavor to keep our action within the limits of this principle on the understanding that it admits our right to interfere when such interference is, not with "bona fide" trade between the United States and another neutral country, but with trade in contraband destined for the enemy's country; and we are ready, whenever our action may unintentionally exceed this principle, to make redress.

We think that much misconception exists as to the extent to which we have, in practice, interfered with trade. Your excellency's note seems to hold His Majesty's Government responsible for the present condition of trade with neutral countries, and it is stated that, through the action of His Majesty's Government, the products of the great industries of the United States have been denied long-established markets in European countries which, though neutral, are contiguous to the seat of war. Such a result is far from being the intention of His Majesty's Government, and they would exceedingly regret that it should be due to their action. I have been unable to obtain complete or conclusive figures showing what the state of trade with these neutral countries has been recently, and I can therefore only ask that some further consideration should be given to the question whether United States trade with these neutral countries has been so seriously affected. The only figures as to the total volume of trade that I have seen are those for the exports from New York for the month of November, 1914, and they are as follows, compared with the month of November, 1913:

Exports from New York for November, 1913, [and] November, 1914, respectively.

	1913	1914
Denmark	$558,000	$7,101,000
Sweden	377,000	2,858,000
Norway	477,000	2,318,000
Italy	2,971,000	4,781,000
Holland	4,389,000	3,960,000

It is true that there may have been a falling off in cotton exports, as to which New York figures would be no guide, but His Majesty's Government have been most careful not to interfere with cotton, and its place on the free list has been scrupulously maintained.

We do not wish to lay too much stress upon incomplete statistics; the figures above are not put forward as conclusive; and we are prepared to examine any further evidence with regard to the state of trade with these neutral countries, which may point to a different conclusion or show that it is the action of His Majesty's Government in particular, and not the existence of a state of war and consequent diminution of purchasing power and shrinkage of trade, which is responsible for adverse effects upon trade with the neutral countries.

That the existence of a state of war on such a scale has had a very adverse effect upon certain great industries, such as cotton, is obvious; but it is submitted that this is due to the general cause of diminished purchasing power of such countries as France, Germany, and the United Kingdom, rather than to interference with trade with neutral countries. In the matter of cotton, it may be recalled that the British Government gave special assistance through the

Liverpool Cotton Exchange to the renewal of transactions in the cotton trade of not only the United Kingdom but of many neutral countries.

Your excellency's note refers in particular to the detention of copper. The figures taken from official returns for the export of copper from the United States for Italy for the months during which the war has been in progress up to the end of the first three weeks of December are as follows:

1913, 15,202,000 pounds; 1914, 36,285,000 pounds. Norway, Sweden, Denmark, and Switzerland are not shown separately for the whole period in the United States returns, but are included in the heading "Other Europe" (that is, Europe other than the United Kingdom, Russia, France, Belgium, Austria, Germany, Holland, and Italy). The corresponding figures under this heading are as follows:

1913, 7,271,000 pounds; 1914, 35,347,000 pounds.

With such figures the presumption is very strong that the bulk of copper consigned to these countries has recently been intended, not for their own use but for that of a belligerent who can not import it direct. It is therefore an imperative necessity for the safety of this country while it is at war that His Majesty's Government should do all in their power to stop such part of this import of copper as is not genuinely destined for neutral countries.

Your excellency does not quote any particular shipment of copper to Sweden which has been detained. There are, however, four consignments to Sweden at the present time of copper and aluminum which, though definitely consigned to Sweden, are, according to positive evidence in the possession of His Majesty's Government, definitely destined for Germany.

I can not believe that with such figures before them and in such cases as those just mentioned the Government of the United States would question the propriety of the action of His Majesty's Government in taking suspected cargoes to a prize court, and we are convinced that it can not be in accord with the wish either of the Government or of the people of the United States to strain the international code in favor of private interests so as to prevent Great Britain from taking such legitimate means for this purpose as are in her power.

With regard to the seizure of foodstuffs to which your excellency refers, His Majesty's Government are prepared to admit that foodstuffs should not be detained and put into a prize court without presumption that they are intended for the armed forces of the enemy or the enemy Government. We believe that this rule has been adhered to in practice hitherto, but if the United States Government have instances to the contrary we are prepared to examine them, and it is our present intention to adhere to the rule, though we can not give an unlimited and unconditional undertaking in view of the departure by those against whom we are fighting from hitherto accepted rules of civilization and humanity and the uncertainty as to the extent to which such rules may be violated by them in future.

From the 4th of August last to the 3d of January the number of steamships proceeding from the United States for Holland, Denmark, Norway, Sweden, and Italy has been 773. Of these there are 45

which have had consignments or cargoes placed in the prize court, while of the ships themselves only 8 have been placed in the prize court, and 1 of these has since been released. It is, however, essential under modern conditions that where there is real ground for suspecting the presence of contraband the vessels should be brought into port for examination; in no other way can the right of search be exercised, and but for this practice it would have to be completely abandoned. Information was received by us that special instructions had been given to ship rubber from the United States under another designation to escape notice, and such cases have occurred in several instances. Only by search in a port can such cases, when suspected, be discovered and proved. The necessity for examination in a port may also be illustrated by a hypothetical instance, connected with cotton, which has not yet occurred. Cotton is not specifically mentioned in your excellency's note, but I have seen public statements made in the United States that the attitude of His Majesty's Government with regard to cotton has been ambiguous, and thereby responsible for depression in the cotton trade. There has never been any foundation for this allegation. His Majesty's Government have never put cotton on the list of contraband; they have throughout the war kept it on the free list; and on every occasion when questioned on the point they have stated their intention of adhering to this practice. But information has reached us that precisely because we have declared our intention of not interfering with cotton, ships carrying cotton will be specially selected to carry concealed contraband; and we have been warned that copper will be concealed in bales of cotton. Whatever suspicions we have entertained, we have not so far made these a ground for detaining any ship carrying cotton, but should we have information giving us real reason to believe in the case of a particular ship that the bales of cotton concealed copper or other contraband the only way to prove our case would be to examine and weigh the bales, a process that could be carried out only by bringing the vessel into a port. In such a case, or if examination justified the action of His Majesty's Government, the case shall be brought before a prize court and dealt with in the ordinary way.

That the decisions of British prize courts hitherto have not been unfavorable to neutrals is evidenced by the decision in the *Miramichi* case. This case, which was decided against the Crown, laid down that the American shipper was to be paid even when he had sold a cargo c. i. f. and when the risk of loss after the cargo had been shipped did not apply to him at all.

It has further been represented to His Majesty's Government, though this subject is not dealt with in your excellency's note, that our embargoes on the export of some articles, more especially rubber, have interfered with commercial interests in the United States. It is, of course, difficult for His Majesty's Government to permit the export of rubber from British dominions to the United States at a time when rubber is essential to belligerent countries for carrying on the war, and when a new trade in exporting rubber from the United States in suspiciously large quantities to neutral countries

has actually sprung up since the war. It would be impossible to permit the export of rubber from Great Britain unless the right of His Majesty's Government were admitted to submit to a prize court cargoes of rubber exported from the United States which they believe to be destined to any enemy country, and reasonable latitude of action for this purpose was conceded. But His Majesty's Government have now provisionally come to an arrangement with the rubber exporters in Great Britain which will permit of licenses being given under proper guaranties for the export of rubber to the United States.

We are confronted with the growing danger that neutral countries contiguous to the enemy will become on a scale hitherto unprecedented a base of supplies for the armed forces of our enemies and for materials for manufacturing armament. The trade figures of imports show how strong this tendency is, but we have no complaint to make of the attitude of the Governments of those countries, which, so far as we are aware, have not departed from proper rules of neutrality. We endeavor in the interest of our own national safety to prevent this danger by intercepting goods really destined for the enemy without interfering with those which are bona fide neutral.

Since the outbreak of the war the Government of the United States have changed their previous practice and have prohibited the publication of manifests till 30 days after the departure of vessels from the United States ports. We had no locus standi for complaining of this change, and did not complain. But the effect of it must be to increase the difficulty of ascertaining the presence of contraband and to render necessary in the interests of our national safety the examination and detention of more ships than would have been the case if the former practice had continued.

Pending a more detailed reply, I would conclude by saying that His Majesty's Government do not desire to contest the general principles of law on which they understand the note of the United States to be based, and desire to restrict their action solely to interferences with contraband destined for the enemy. His Majesty's Government are prepared, whenever a cargo coming from the United States is detained, to explain the case on which such detention has taken place, and would gladly enter into any arrangement by which mistakes can be avoided and reparation secured promptly when any injury to the neutral owners of a ship or cargo has been improperly caused, for they are most desirous in the interest both of the United States and of other neutral countries that British action should not interfere with the normal importation and use by the neutral countries of goods from the United States.

I have, etc. E. GREY.

On February 10, 1915, Britain made her promised detailed reply to our note of December 26, 1914.

British note, February 10, 1915, replying finally to the American note of December 26, 1914, in regard to the seizure and detention of American cargoes:

(The secretary of state for foreign affairs to the American ambassador.)

YOUR EXCELLENCY: Your excellency has already received the preliminary answer, which I handed to you on the 7th January, in reply

to your note of the 28th December on the subject of the seizures and detentions of American cargoes destined for neutral European ports.

Since that date I have had further opportunity of examining into the trade statistics of the United States, as embodied in the customs returns, in order to see whether the belligerent action of Great Britain has been in any way the cause of the trade depression which your excellency describes as existing in the United States, and also whether the seizures of vessels or cargoes which have been made by the British Navy have inflicted any loss on American owners for which our existing machinery provides no means of redress. In setting out the results of my investigation I think it well to take the opportunity of giving a general review of the methods employed by His Majesty's Government to intercept contraband trade with the enemy, of their consistency with the admitted right of a belligerent to intercept such trade, and also of the extent to which they have endeavored to meet the representations and complaints from time to time addressed to them on behalf of the United States Government.

Toward the close of your note of the 28th December your excellency describes the situation produced by the action of Great Britain as a pitiful one to the commercial interests of the United States and said that many of the great industries of the country were suffering because their products were denied long-established markets in neutral European countries contiguous to the nations at war.

It is unfortunately true that in these days when trade and finance are cosmopolitan any war—particularly a war of any magnitude—must result in a grievous dislocation of commerce, including that of the nations which take no part in the war. Your excellency will realize that in this tremendous struggle, for the outbreak of which Great Britain is in no way responsible, it is impossible for the trade of any country to escape all injury and loss, but for such His Majesty's Government is not to blame.

I do not understand the paragraph which I have quoted from your excellency's note as referring to these indirect consequences of the state of war, but to the more proximate and direct effect of our belligerent action in dealing with neutral ships and cargoes on the high seas. Such action has been limited to vessels on their way to enemy ports or ports in neutral countries adjacent to the theater of war, because it is only through such ports that the enemy introduces the supplies which he requires for carrying on the war.

In my earlier note I set out the number of ships which had sailed from the United States for Holland, Denmark, Norway, Sweden, and Italy, and I there stated that only 8 of the 773 had been placed in the prize court, and that only 45 had been temporarily detained to enable particular consignments of cargo to be discharged for the purpose of prize-court proceedings. To measure the effect of such naval action it is necessary to take into consideration the general statistics of the export trade of the United States during the months preceding the outbreak of war and those since the outbreak.

Taking the figures in millions of dollars, the exports of merchandise from the United States for the seven months of January to July, 1914, inclusive, were 1,201, as compared with 1,327 in the corresponding months of 1913, a drop of $126,000,000.

For the months of August, September, October, and November—that is to say, for the four months of the war preceding the delivery

of your excellency's note—the figures of the exports of merchandise were $667,000,000 as compared with $923,000,000 in the corresponding months of 1913, a drop of $256,000,000.

If, however, the single article of cotton be eliminated from the comparison, the figures show a very different result. Thus the exports of all articles of merchandise other than cotton from the United States during the first seven months of 1914 were $966,000,000 as against $1,127,000,000 in 1913, a drop of $161,000,000, or 14½ per cent.

On the other hand, the exports of the same articles during the months August to November amounted to $608,000,000 as compared with $630,000,000 in 1913, a drop of only $22,000,000, or less than 4 per cent.

It is therefore clear that if cotton be excluded the effect of the war has been not to increase, but practically to arrest the decline of American exports which was in progress earlier in the year. In fact, any decrease in American exports which is attributable to the war is essentially due to cotton. Cotton is an article which can not possibly have been affected by the exercise of our belligerent rights, for, as your excellency is aware, it has not been declared by His Majesty's Government to be contraband of war, and the rules under which we are at present conducting our belligerent operations gives us no power in the absence of a blockade to seize or interfere with it when on its way to a belligerent country in neutral ships. Consequently no cotton has been touched.

Into the cause of the decrease in the exports of cotton I do not feel that there is any need for me to enter, because whatever may have been the cause it is not to be found in the exercise of the belligerent rights of visit, search, and capture, or in our general right when at war to intercept the contraband trade of our enemy. Imports of cotton to the United Kingdom fell as heavily as those to other countries. No place felt the outbreak of war more acutely than the cotton districts of Lancashire, where for a time an immense number of spindles were idle. Though this condition has now to a large extent passed away, the consumption of the raw material in Great Britain was temporarily much diminished. The same is no doubt true of France.

The general result is to show convincingly that the naval operations of Great Britain are not the cause of any diminution in the volume of American exports, and that if the commerce of the United States is in the unfavorable condition which your excellency describes the cause ought in fairness to be sought elsewhere than in the activities of His Majesty's naval forces.

I may add that the circular issued by the Department of Commerce at Washington on the 23d of January admits a marked improvement in the foreign trade of the United States, which we have noted with great satisfaction. The first paragraph of the circular is worth quoting verbatim:

"A marked improvement in our foreign trade is indicated by the latest reports issued by the Department of Commerce, through its Bureau of Foreign and Domestic Commerce, sales of foodstuffs and certain lines of manufactures having been unusually large in November, the latest period for which detailed information is at hand. In that month exports aggregated $206,000,000, or double the total for August last, when, by reason of the outbreak of war, our foreign

trade fell to the lowest level reached in many years. In December there was further improvement, the month's exports being valued at $246,000,000, compared with $233,000,000 in December, 1913, and within $4,000,000 of the high record established in December, 1912."

A better view of the situation is obtained by looking at the figures month by month. The exports of merchandise for the last five months have been (in millions of dollars):

August	110	November	205
September	156	December	246
October	194		

The outbreak of war produced in the United States, as it did in all neutral countries, an acute but temporary disturbance of trade. Since that time there seems to have been a steady recovery, for to-day the exports from the United States stand at a higher figure than on the same date last year.

Before passing away from the statistics of trade, and in order to demonstrate still more clearly, if necessary, that the naval operations of Great Britain and her allies have had no detrimental effect on the volume of trade between the United States and neutral countries, it is worth while to analyze the figures of the exports to Europe since the outbreak of hostilities. For this purpose the European countries ought to be grouped under three heads: Great Britain and those fighting with her, neutral countries, and enemy countries. It is, however, impossible for me to group the countries in this way satisfactorily, as the figures relating to the export trade of the United States with each country have not yet been published. In the preliminary statement of the export trade of the United States with foreign countries only principal countries are shown, and various countries which are tabulated separately in the more detailed monthly summary of commerce and finance are omitted. Those omitted include not only the Scandinavian countries, the exports to which are of peculiar importance in dealing with this question, but also Austria.

So far as it is possible to distribute the figures under the headings which I have indicated above (all the figures given being in thousands of dollars), the results are as follows:

Total exports to Europe from the 1st of August to the 30th of November, 413,995, as against 597,342 in 1913. Of these, Great Britain and her allies took 288,312, as against 316,805 in 1913. Germany and Belgium took 1,881, as against 177,136 in 1913, whereas neutral countries (among which Austria-Hungary is unavoidably included) took 123,802, as against 103,401 in 1913.

The general complaint in your excellency's note was that the action of Great Britain was affecting adversely the trade of the United States with neutral countries. The naval operations of Great Britain certainly do not interfere with commerce from the United States on its way to the United Kingdom and the allied countries, and yet the exports to Great Britain and her allies during those four months diminished to the extent of over $28,000,000, whereas those to neutral countries and Austria increased by over $20,000,000.

The inference may fairly be drawn from these figures, all of which are taken from the official returns published by the United States Government, that not only has the trade of the United States with the neutral countries in Europe been maintained as compared with

previous years, but also that a substantial part of this trade was, in fact, trade intended for the enemy countries going through neutral ports by routes to which it was previously unaccustomed.

One of the many inconveniences to which this great war is exposing the commerce of all neutral countries is undoubtedly the serious shortage in shipping available for ocean transport and the consequential result of excessive freights.

It can not fairly be said that this shortage is caused by Great Britain's interference with neutral ships. At the present time there are only seven neutral vessels awaiting adjudication in the prize courts in this country and three in those in the British dominions. As your excellency is aware, I have already instructed our ambassador at Washington to remind the parties who are interested in these vessels that it is open to them to apply to the court for the release of these ships on bail, and if an application of this sort is made by them it is not likely to be opposed by the Crown. There is therefore no reason why such an application should not be favorably entertained by the court, and if acceded to, all these vessels will again be available for the carriage of commerce. Only one neutral vessel is now detained in this country in addition to those awaiting adjudication in the prize court.

Every effort has been made in cases in which it has been found necessary to institute proceedings against portions of the cargo to secure the speedy discharge of the cargo and the release of the ship, so as to enable it to resume work. Great Britain is suffering from the shortage of shipping and the rise in freights as acutely as, if not more than, other nations, and His Majesty's Government have taken every step that they could consistently with their belligerent interests to increase the tonnage available for the transport of sea-borne commerce. The enemy ships which have been condemned in the prize courts in this country are being sold as rapidly as possible in order that they may become available for use; and those which have been condemned in the prize courts oversea are being brought to this country in order that they may be disposed of here and again placed in active employment.

The difficulties have been accentuated by the unforeseen consequences of the convention which was signed at The Hague in 1907 relative to the status of enemy merchant vessels at the outbreak of war. This convention was a well-intentioned effort to diminish the losses which war must impose upon innocent persons, and provided that enemy merchant ships seized by a belligerent in whose ports they lay at the outbreak of war should not be condemned, but should merely be detained for the period of the war, unless they were liberated in the days of grace. We could come to no arrangement with the German Government for the reciprocal grant of days of grace, and the German merchant vessels lying in British ports when the war broke out have therefore been sentenced to detention in lieu of condemnation. The normal result would have been still further to reduce the volume of shipping available for the commerce of the world. To ease the situation, however, His Majesty's Government are resorting to the power of requisitioning which is given by the convention, so that these ships may again be placed in active service.

Your excellency will see, therefore, that His Majesty's Government are doing all in their power to increase the volume of shipping avail-

able. I hope it will be realized that the detention of neutral ships by His Majesty's Government with a view to the capture of contraband trade on its way to the enemy has not contributed nearly so much to the shortage of shipping as has the destruction of neutral vessels by submarine mines indiscriminately laid by the enemy on the high seas, many miles from the coast, in the track of merchant vessels. Up till now 25 neutral vessels have been reported as destroyed by mines on the high seas; quite apart from all questions of the breach of treaties and the destruction of life, there is far more reason for protest on the score of belligerent interference with innocent neutral trade through the mines scattered by the enemy than through the British exercise of the right of seizing contraband.

I trust that what I have said above will be sufficient to convince Your Excellency's Government that the complaints that the naval policy of Great Britain has interfered with the shipments of American products to long-established markets in neutral European countries is founded on a misconception.

In justice to the peoples of both countries I feel that this opportunity should be taken to explain the lines on which His Majesty's Government has been acting hitherto, so as to show that the line they have followed is in no way inconsistent with the general fundamental principle of international law and to indicate the care with which they have endeavored to meet the representations which have been made by the United States Government from time to time during the war on these questions.

No one in these days will dispute the general proposition that a belligerent is entitled to capture contraband goods on their way to the enemy; that right has now become consecrated by long usage and general acquiescence. Though the right is ancient, the means of exercising it alter and develop with the changes in the methods and machinery of commerce. A century ago the difficulties of land transport rendered it impracticable for the belligerent to obtain supplies of sea-borne goods through a neighboring neutral country. Consequently the belligerent actions of his opponents neither required nor justified any interference with shipments on their way to a neutral port. This principle was recognized and acted on in the decisions in which Lord Stowell laid down the lines on which captures of such goods should be dealt with.

The advent of steam power has rendered it as easy for a belligerent to supply himself through the ports of a neutral contiguous country as through his own, and has therefore rendered it impossible for his opponent to refrain from interfering with commerce intended for the enemy merely because it is on its way to a neutral port.

No better instance of the necessity of countering new devices for dispatching contraband goods to an enemy by new methods of applying the fundamental principle of the right to capture such contraband can be given than the steps which the Government of the United States found it necessary to take during the American Civil War. It was at that time that the doctrine of continuous voyage was first applied to the capture of contraband; that is to say, it was then for the first time that a belligerent found himself obliged to capture contraband goods on their way to the enemy, even though at the time of capture they were en route for a neutral port from which they were intended subsequently to continue their journey. The policy then fol-

lowed by the United States Government was not inconsistent with the general principles already sanctioned by international law, and met with no protest from His Majesty's Government, though it was upon British cargoes and upon British ships that the losses and the inconvenience due to this new development of the application of the old rule of international law principally fell. The criticisms which have been directed against the steps then taken by the United States came, and come, from those who saw in the methods employed in Napoleonic times for the prevention of contraband a limitation upon the right itself, and failed to see that in Napoleonic times goods on their way to a neutral port were immune from capture not because the immediate destination conferred a privilege but because capture under such circumstances was unnecessary.

The facilities which the introduction of steamers and railways have given to a belligerent to introduce contraband goods through neutral ports have imposed upon his opponent the additional difficulty, when endeavoring to intercept such trade, of distinguishing between the goods which are really destined for the commerce of that neutral country and the goods which are on their way to the enemy. It is one of the many difficulties with which the United States Government found themselves confronted in the days of the Civil War, and I can not do better than quote the words which Mr. Seward, who was then Secretary of State, used in the course of diplomatic discussion arising out of the capture of some goods on their way to Matamoros which were believed to be for the insurgents:

"Neutrals engaged in honest trade with Matamoros must expect to experience inconvenience from the existing blockade of Brownsville and the adjacent coast of Texas. While this Government unfeignedly regrets this inconvenience, it can not relinquish any of its belligerent rights to favor contraband trade with insurgent territory by insisting upon those rights; however, it is sure that that necessity for their exercise at all, which must be deplored by every friendly commercial power, will the more speedily be terminated."

The opportunities now enjoyed by a belligerent for obtaining supplies through neutral ports are far greater than they were 50 years ago, and the geographical conditions of the present struggle lend additional assistance to the enemy in carrying out such importation. We are faced with the problem of intercepting such supplies when arranged with all the advantages that flow from elaborate organization and unstinted expenditure. If our belligerent rights are to be maintained, it is of the first importance for us to distinguish between what is really bona fide trade intended for the neutral country concerned and the trade intended for the enemy country. Every effort is made by organizers of this trade to conceal the true destination, and if the innocent neutral trade is to be distinguished from the enemy trade it is essential that His Majesty's Government should be entitled to make, and should make, careful inquiry with regard to the destination of particular shipments of goods even at the risk of some slight delay to the parties interested. If such inquiries were not made, either the exercise of our belligerent rights would have to be abandoned, tending to the prolongation of this war and the increase of the loss and suffering which it is entailing upon the whole world, or else it would be necessary to indulge in indiscriminate captures of neutral goods and their detention throughout all the period of the

resulting prize-court proceedings. Under the system now adopted it has been found possible to release without delay, and consequently without appreciable loss to the parties interested, all the goods of which the destination is shown as the result of the inquiries to be innocent.

It may be well that the system of making such inquiries is to a certain extent a new introduction, in that it has been practiced to a far greater extent than in previous wars; but if it is correctly described as a new departure, it is a departure which is wholly to the advantage of neutrals, and which has been made for the purpose of relieving them, so far as possible, from loss and inconvenience.

There was a passage in a note which the State Department addressed to the British ambassador at Washington on the 7th November, to which I think it may be well to refer:

"In the opinion of this Government, the belligerent right of visit and search requires that the search should be made on the high seas at the time of the visit, and that the conclusion of the search should rest upon the evidence found on the ship under investigation, and not upon circumstances ascertained from external sources."

The principle here enunciated appears to me to be inconsistent with the practice in these matters of the United States Government, as well as of the British Government. It certainly was not the rule upon which the United States Government acted either during the Civil War or during the Spanish-American War, nor has it ever been the practice of the British Government, nor, so far as I am aware, of any other Government which has had to carry on a great naval war; as a principle I think it is impossible in modern times. The necessity for giving the belligerent captor full liberty to establish by all the evidence at his disposal the enemy destination with which the goods were shipped was recognized in all the leading decisions in the prize courts of the United States during the Civil War.

No clearer instance could be given than the reporter's statement of the case of the *Bermuda* (3 Wallace, 514):

"The final destination of the cargo in this particular voyage was left so skillfully open * * * that it was not quite easy to prove, with that certainty which American courts require, the intention, which it seemed plain must have really existed. Thus to prove it required that truth should be collated from a variety of sources, darkened and disguised; from others opened as the cause advanced, and by accident only; from coincidences undesigned, and facts that were circumstantial. Collocations and comparisons, in short, brought largely their collective force in aid of evidence that was more direct."

It is not impossible that the course of the present struggle will show the necessity for belligerent action to be taken in various ways which may at first sight be regarded as a departure from old practice. In my note of the 7th January I dealt at some length with the question of the necessity of taking vessel sinto port for the purposes of carrying out an effective search, where search was necessary; to that subject I feel that I need not again recur.

The growth in the size of steamships necessitates in many cases that the vessel should go into calm water, in order that even the right of visit, as apart from the right of search, should be exercised. In

modern times a steamer is capable of pursuing her voyage irrespective of the conditions of the weather. Many of the neutral merchantmen which our naval officers are called upon to visit at sea are encountered by our cruisers in places and under conditions which render the launching of a boat impossible. The conditions during winter in the North Atlantic frequently render it impracticable for days together for a naval officer to board a vessel on her way to Scandinavian countries. If a belligerent is to be denied the right of taking a neutral merchantman, met with under such conditions, into calm water in order that the visiting officer may go aboard, the right of visit and of search would become a nullity.

The present conflict is not the first in which this necessity has arisen. As long ago as the Civil War the United States found it necessary to take vessels to United States ports in order to determine whether the circumstances justified their detention.

The same need arose during the Russo-Japanese War and also during the second Balkan War, when it sometimes happened that British vessels were made to deviate from their course and follow the cruisers to some spot where the right of visit and of search could be more conveniently carried out. In both cases this exercise of belligerent rights, although questioned at first by His Majesty's Government, was ultimately acquiesced in.

No power in these days can afford during a great war to forego the exercise of the right of visit and search. Vessels which are apparently harmless merchantmen can be used for carrying and laying mines and even fitted to discharge torpedoes. Supplies for submarines can without difficulty be concealed under other cargo. The only protection against these risks is to visit and search thoroughly every vessel appearing in the zone of operations, and if the circumstances are such as to render it impossible to carry it out at the spot where the vessel was met with the only practicable course is to take the ship to some more convenient locality for the purpose. To do so is not to be looked upon as a new belligerent right, but as an adaptation of the existing right to the modern conditions of commerce. Like all belligerent rights, it must be exercised with due regard for neutral interests, and it would be unreasonable to expect a neutral vessel to make long deviations from her course for this purpose. It is for this reason that we have done all we can to encourage neutral merchantmen on their way to ports contiguous to the enemy country to visit some British port lying on their line of route in order that the necessary examination of the ship's papers, and, if required, of the cargo, can be made under conditions of convenience to the ship herself. The alternative would be to keep a vessel which the naval officers desired to board waiting, it might be for days together, until the weather conditions enabled the visit to be carried out at sea.

No war has yet been waged in which neutral individuals have not occasionally suffered from unjustified belligerent action; no neutral nation has experienced this fact more frequently in the past than Great Britain. The only method by which it is possible to harmonize belligerent action with the rights of neutrals is for the belligerent nation to provide some adequate machinery by which in any such case the facts can be investigated and appropriate redress can be obtained by the neutral individual. In this country such machinery

is provided by the powers which are given to the prize court to deal not only with captures, but also with claims for compensation. Order V, rule 2, of the British prize court rule, provides that where a ship has been captured as prize, but has been subsequently released by the captors, or has by loss, destruction, or otherwise ceased to be detained by them, without proceedings for condemnation having been taken, any person interested in the ship (which by Order I, rule 2, includes goods) wishing to make a claim for costs and damages in respect thereof, shall issue a writ as provided by Order II. A writ so issued will initiate a proceeding which will follow its ordinary course in the prize court.

This rule gives the prize court ample jurisdiction to deal with any claim for compensation by a neutral arising from the interference with a ship or goods by our naval forces. The best evidence that can be given of the discrimination and the moderation with which our naval officers have carried out their duties is to be found in the fact that up to this time no proceedings for the recovery of compensation have been initiated under the rule which I have quoted.

It is the common experience of every war that neutrals whose attempts to engage in suspicious trading are frustrated by a belligerent are wont to have recourse to their Government to urge that diplomatic remonstrances should be made on their behalf, and that redress should be obtained for them in this way. When an effective mode of redress is open to them in the courts of a civilized country by which they can obtain adequate satisfaction for any invasion of their rights which is contrary to the law of nations, the only course which is consistent with sound principle is that they should be referred to that mode of redress, and that no diplomatic action should be taken until their legal remedies have been exhausted, and they are in a position to show prima facie denial of justice.

The course adopted by His Majesty's Government during the American Civil War was in strict accordance with this principle. In spite of remonstrances from many quarters, they placed full reliance on the American prize courts to grant redress to the parties interested in cases of alleged wrongful capture by American ships of war, and put forward no claims until the opportunities for redress in those courts had been exhausted. The same course was adopted in the Spanish-American War, when all British subjects who complained of captures or detentions of their ships were referred to the prize courts for relief.

Before leaving the subject may I remind your excellency of the fact that at your request you are now supplied immediately by this department with particulars of every ship under American colors which is detained, and of every shipment of cargo in which an American citizen appears to be the party interested. Not only is the fact of detention notified to your excellency, but so far as is practicable the grounds upon which the vessel or cargo has been detained are also communicated to you—a concession which enables any United States citizen to take steps at once to protect his interests.

His Majesty's Government have also done all that lies in their power to insure rapid action when ships are reported in British ports. They realize that the ship and cargo owners may reasonably expect an immediate decision to be taken as to whether the ship may be

allowed to proceed, and whether her cargo or any part of it must be discharged and put into the prize court. Realizing that the ordinary methods of interdepartmental correspondence might cause delays which could be obviated by another method of procedure, they established several months ago a special committee, on which all the departments concerned are represented. This committee sits daily, and is provided with a special clerical staff. As soon as a ship reaches port full particulars are telegraphed to London, and the case is dealt with at the next meeting of the committee, immediate steps being taken to carry out the action decided upon. By the adoption of this procedure it has been found possible to reduce to a minimum the delays to which neutral shipping is exposed by the exercise of belligerent rights, and by the necessity, imposed by modern conditions, of examining with care the destination of contraband articles.

Particular attention is directed in your excellency's note to the policy we are pursuing with regard to conditional contraband, especially foodstuffs, and it is there stated that a number of American cargoes have been seized without, so far as your excellency's Government are informed, our being in possession of facts which warranted a reasonable belief that the shipments had in reality a belligerent destination, and in spite of the presumption of innocent use due to their being destined to neutral territory. The note does not specify any particular seizures as those which formed the basis of this complaint, and I am therefore not aware whether the passage refers to cargoes which were detained before or since the order in council of the 29th of October was issued.

Your excellency will no doubt remember that soon after the outbreak of war an order of His Majesty in council was issued under which no distinction was drawn in the application of the doctrine of continuous voyage between absolute contraband and conditional contraband, and which also imposed upon the neutral owner of contraband somewhat drastic conditions as to the burden of proof of the guilt or innocence of the shipment.

The principle that the burden of proof should always be imposed upon the captor has usually been admitted as a theory. In practice, however, it has almost always been otherwise, and any student of the prize courts' decisions of the past or even of modern wars will find that goods seldom escape condemnation unless their owner was in a position to prove that their destination was innocent. An attempt was made some few years ago, in the unratified declaration of London, to formulate some definite rules upon this subject, but time alone can show whether the rules there laid down will stand the test of modern warfare.

The rules which His Majesty's Government published in the order in council of the 20th August, 1914, were criticized by the United States Government as contrary to the generally recognized principles of international law, and as inflicting unnecessary hardship upon neutral commerce, and your excellency will remember the prolonged discussion which took place between us through the month of October with a view to finding some new formulæ which should enable us to restrict supplies to the enemy forces, and to prevent the supply to the enemy of materials essential for the making of munitions of war, while inflicting the minimum of injury and interference with neutral

commerce. It was with this object that the order in council of the 29th October was issued, under the provisions of which a far greater measure of immunity is conferred upon neutral commerce. In that order the principle of noninterference with conditional contraband on its way to a neutral port is in large measure admitted; only in three cases is the right to seize maintained, and in all those cases the opportunity is given to the claimants of the goods to establish their innocence.

Two of those cases are where the ship's papers afford no information as to the person for whom the goods are intended. It is only reasonable that a belligerent should be entitled to regard as suspicious cases where the shippers of the goods do not choose to disclose the name of the individual who is to receive them. The third case is that of goods addressed to a person in the enemy territory. In the peculiar circumstances of the present struggle, where the forces of the enemy comprise so large a proportion of the population, and where there is so little evidence of shipments on private as distinguished from Government account, it is most reasonable that the burden of proof should rest upon the claimant.

The most difficult questions in connection with conditional contraband arise with reference to the shipment of foodstuffs. No country has maintained more stoutly than Great Britain in modern times the principle that a belligerent should abstain from interference with the foodstuffs intended for the civil population. The circumstances of the present struggle are causing His Majesty's Government some anxiety as to whether the existing rules with regard to conditional contraband, framed as they were with the object of protecting so far as possible the supplies which were intended for the civil population, are effective for the purpose or suitable to the conditions present. The principle which I have indicated above is one which His Majesty's Government have constantly had to uphold against the opposition of continental powers. In the absence of some certainty that the rule would be respected by both parties to this conflict, we feel great doubt whether it should be regarded as an established principle of international law.

Your excellency will, no doubt, remember that in 1885, at the time when His Majesty's Government were discussing with the French Government this question of the right to declare foodstuffs not intended for the military forces to be contraband, and when public attention had been drawn to the matter, the Kiel Chamber of Commerce applied to the German Government for a statement of the latter's views on the subject. Prince Bismarck's answer was as follows:

"In answer to their representation of the 1st instant, I reply to the chamber of commerce that any disadvantage our commercial and carrying interests may suffer by the treatment of rice as contraband of war does not justify our opposing a measure which it has been thought fit to take in carrying on a foreign war. Every war is a calamity, which entails evil consequences not only on the combatants but also on neutrals. These evils may easily be increased by the interference of a neutral power with the way in which a third carries on the war, to the disadvantage of the subjects of the interfering power, and by this means German commerce might be weighed with

far heavier losses than a transitory prohibition of the rice trade in Chinese waters. The measure in question has for its object the shortening of the war by increasing the difficulties of the enemy and is a justifiable step in war if impartially enforced against all neutral ships."

His Majesty's Government are disposed to think that the same view is still maintained by the German Government.

Another circumstance which is now coming to light is that an elaborate machinery has been organized by the enemy for the supply of foodstuffs for the use of the Germany Army from overseas. Under these circumstances it would be absurd to give any definite pledge that in cases where the supplies can be proved to be for the use of the enemy forces they should be given complete immunity by the simple expedient of dispatching them to an agent in a neutral port.

The reason for drawing a distinction between foodstuffs intended for the civil population and those for the armed forces or enemy Government disappears when the distinction between the civil population and the armed forces itself disappears.

In any country in which there exists such a tremendous organization for war as now obtains in Germany there is no clear division between those whom the Government is responsible for feeding and those whom it is not. Experience shows that the power to requisition will be used to the fullest extent in order to make sure that the wants of the military are supplied, and however much goods may be imported for civil use it is by the military that they will be consumed if military exigencies require it, especially now that the German Government have taken control of all the foodstuffs in the country.

I do not wish to overburden this note with statistics, but in proof of my statement as to the unprecedented extent to which supplies are reaching neutral ports I should like to instance the figures of the exports of certain meat products to Denmark during the months of September and October. Denmark is a country which in normal times imports a certain quantity of such products, but exports still more. In 1913, during the above two months, the United States exports of lard to Denmark was nil, as compared with 22,652,598 pounds in the same two months of 1914. The corresponding figures with regard to bacon were: 1913, nil; 1914, 1,022,195 pounds; canned beef, 1913, nil; 1914, 151,200 pounds; pickled and cured beef, 1913, 42,901 pounds; 1914, 156,143 pounds; pickled pork, 1913, nil; 1914, 812,872 pounds.

In the same two months the United States exported to Denmark 280,176 gallons of mineral lubricating oil in 1914, as compared with 179,252 in 1913; to Norway, 335,468 gallons in 1914, as against 151,179 gallons in 1913; to Sweden, 896,193 gallons in 1914, as against 385,476 gallons in 1913.

I have already mentioned the framing of the order in council of the 20th October, and the transmission to your excellency of particulars of ships and cargoes seized as instances of the efforts which we have made throughout the course of this war to meet all reasonable complaints made on behalf of American citizens, and in my note of the 7th January I alluded to the decision of our prize

court in the case of the *Miramichi* as evidencing the liberal principles adopted toward neutral commerce.

I should also like to refer to the steps which we took at the beginning of the war to insure the speedy release of cargo claimed by neutrals on board enemy ships which were captured or detained at the outbreak of war. Under our prize-court rules release of such goods can be obtained without the necessity of entering a claim in the prize court if the documents of title are produced to the officer representing His Majesty's Government and the title to the goods is established to his satisfaction. It was shortly found, however, that this procedure did not provide for the case where the available evidence was so scanty that the officer representing the Crown was not justified in consenting to a release. In order, therefore, to ameliorate the situation we established a special committee, with full powers to authorize the release of goods without insisting on full evidence of title being produced. This committee dealt with the utmost expedition with a large number of claims. In the great majority of cases the goods claimed were released at once. In addition to the cases dealt with by this committee a very large amount of cargo was released at once by the procurator general on production of documents. Claimants therefore obtained their goods without the necessity of applying to the prize court and of incurring the expense involved in retaining lawyers and without the risk, which was in some cases a considerable one, of the goods being eventually held to be enemy property and condemned. We have reason to know that our action in this matter was highly appreciated by many American citizens.

Another instance of the efforts which His Majesty's Government have made to deal as leniently as possible with neutral interests may be found in the policy which we have followed with regard to the transfer to a neutral flag of enemy ships belonging to companies which were incorporated in the enemy country, but all of whose shareholders were neutral. The rules applied by the British and by the American prize courts have always treated the flag as conclusive in favor of the captors in spite of neutral proprietary interests. (See the case of the *Pedro*, 175 U. S., 354.) In several cases, however, we have consented to waive our belligerent rights to treat as enemy vessels ships belonging to companies incorporated in Germany which were subsidiary to and owned by American corporations. The only condition which we have imposed is that these vessels should take no further part in trade with the enemy country.

I have given these indications of the policy which we have followed, because I can not help feeling that if the facts were more fully known as to the efforts which we have made to avoid inflicting any avoidable injury on neutral interests many of the complaints which have been received by the administration in Washington, and which led to the protest which your excellency handed to me on the 29th December, would never have been made. My hope is that when the facts which I have set out above are realized, and when it is seen that our naval operations have not diminished American trade with neutral countries, and that the lines on which we have acted are consistent with the fundamental principles of international law, it will be apparent to the Government and people of the United States that His Majesty's Government have hitherto endeavored to exercise their

belligerent rights with every possible consideration for the interests of neutrals.

It will still be our endeavor to avoid injury and loss to neutrals, but the announcement by the German Government of their intention to sink merchant vessels and their cargoes without verification of their nationality or character and without making any provision for the safety of noncombatant crews or giving them a chance of saving their lives has made it necessary for His Majesty's Government to consider what measures they should adopt to protect their interests. It is impossible for one belligerent to depart from rules and precedents and for the other to remain bound by them.

I have the honor, etc., E. GREY.

Britain's change of lists of contraband so as to embrace most of the sea-borne commerce, and her insistence of the exercise of her prize-court proceedings encompassed almost the entire neutral trade in the early part of the war as indicated by the following lists of vessels seized and detained by her order:

The first list includes the cases of 155 vessels brought into British ports or otherwise detained for examination. Of these, 40 were forced to discharge their cargoes, which were held for prize-court proceedings. Thirty more were subjected to protracted detention at great loss. One American vessel carrying oil to Copenhagen was run aground by the English prize crew aboard her off the coast of Scotland.

It will be noted that this list does not include cases like that of the *Wilhelmina*, which, when seized by the British, was bound for Hamburg with cargo of foodstuffs, and the *Dacia*, which was seized by the French Navy under British instructions.

Nor does this list include the vessels, 273 in number, recorded by the Government of the United States in an appendix to its note of October 21 as having been detained in the port of Kirkwall alone between March 11 and June 17. The Government list is appended, bringing this merely illustrative record of ships detained up to a total of 428.

From March 11, 1915, to June 16, 1915, 271 vessels carrying American cargoes were compelled to stop at Kirkwall, England.

A PARTIAL LIST OF SHIPS DETAINED.

S. S. *Kumeric* (British): Sailed from Galveston July 17, 1914 (via Newport News July 24), for Bremen. Cargo, 49,000 bushels of grain. Taken to Queenstown August 2; detained at Liverpool August 19.

S. S. *Berwindmoor* (British): Sailed from New Orleans July 21, 1914, for Rotterdam. Cargo, 196,000 bushels of grain. Diverted to Falmouth August 5; at London August 21.

S. S. *Campanello* (British): Sailed from New York July 30, 1914, for Rotterdam. Sent to Cardiff August 12; detained.

S. S. *Spenser* (British): Sailed from New York July 31, 1914, for Rotterdam. Sent to Liverpool.

S. S. *Saint Helena* (British): Sailed from Galveston July 16, 1914 (via Norfolk, Va., July 24), for Bremen and Hamburg. Cargo, phosphate rock, wheat, and cotton. Diverted to Manchester.

Cargo seized August 12. Phosphate rock released, as well as part of cotton. Large quantity of cotton and the wheat not released, including 50 bales of cotton shipped by Alexander Spunt & Co., of Houston, Tex., and Bremen; claimed belonging to neutral subjects and as such not subject to seizure; also on ground that contract of sale between American citizens dated May 8, 1914. These goods, including wheat, condemned in prize court.

S. S. *Penlover* (British): Sailed from Galveston July 18, 1914, for Rotterdam. Cargo, 264,000 bushels of grain. Diverted to Falmouth and ordered to London August 15.

S. S. *Kalomo* (British): Sailed from New Orleans July 24, 1914, for Rotterdam. Cargo, 64,000 bushels of grain. Detained at Falmouth; at London August 15.

S. S. *Andijk* (Dutch): Sailed from New Orleans July 30, 1914, for Rotterdam. Cargo, 136,000 bushels of grain. Sent to Falmouth for orders; arrived at Rotterdam August 16.

S. S. *Noruega* (Norwegian): Sailed from Galveston July 30, 1914, for Christiania. Cargo, 40,000 bushels grain. Diverted to Falmouth; arrived at Christiania August 26.

S. S. *Orteric* (British): Sailed from Galveston July 27, 1914 (Newport News August 4). Detained at Queenstown August 17; arrived at Liverpool August 21. Cargo for Bremen and Hamburg seized.

S. S. *Nitonian* (British): Sailed from New Orleans July 31, 1914, for Antwerp. Cargo, 142,000 bushels grain. Diverted to Falmouth; arrived at London August 22; at Antwerp September 5.

S. S. *Glenfinlas* (British): Sailed from New Orleans August 1, 1914 (via Norfolk August 7), for Rotterdam. Cargo, 108,000 bushels grain. Diverted to Falmouth August 26; at London September 1.

S. S. *St. Dunstan* (British): Sailed from Galveston August 4, 1914, for Rotterdam. Cargo, 122,400 bushels grain. Diverted to Cork for orders; at Liverpool August 27; at Manchester September 5.

S. S. *Miramichi* (British): Sailed from New York July 3, 1914 (via Galveston July 23), for Rotterdam. Cargo, 16,000 bushels of wheat (part of cargo), shipped by Muir & Co., for Rotterdam, to be delivered to George Fries & Co. in Colmar, Germany, and Gebrueder Zimmern & Co., Mannheim, Germany. Vessel not permitted to proceed to Rotterdam. Taken to Eastham and cargo consigned to Germany seized. Prize court decided that goods seized were property of the American claimants and not subject to seizure. Ordered released to claimants December, 1914.

S. S. *Klosterfos* (Norwegian): Sailed from New York August 28, 1914, for Christiania. Cargo, flour in barrels. Vessel stopped and boarded by British officers off the north coast of Scotland and ordered to Aberdeen. Held several days until neutral ownership of cargo was established. Arrived at Christiania September 17.

S. S. *Vitalia* (Norwegian): Sailed from New York August 19, 1914, to Rotterdam. Cargo, meat. Detained at Falmouth September 7.

S. S. *Lorenzo* (American, New York and Porto Rico Line): Chartered on August 2, 1914, by Gans Steamship Line. Sailed from New York August 6, 1914, for Buenos Aires. Cargo, coal. Captured by British and taken to St. Lucia September 12. October 16, cargo condemned; October 30, vessel condemned.

S. S. *Heina* (Norwegian): Sailed from Philadelphia August 7, 1914, for St. Thomas. Cargo, coal. Seized September 13 off St. Thomas by French cruiser *Conde;* detained six months; released at Fort de France March 20, 1915; reached New York April 15, 1915.

S. S. *Vestfos* (Norwegian): Sailed from New York August 28, 1914, for Christiania. Cargo, flour in barrels. Stopped and boarded by British officers. Taken to Kirkwall; left September 14; arrived Christiania September 17.

S. S. *Ryndam* (Dutch, Holland-America Line): Sailed from New York September 8, 1914, for Rotterdam. Seized by British warships and brought into Cork Harbor September 17; released September 20 at Queenstown. Again held up and ordered by British cruiser (September 21) to enter Falmouth. Arrived at Rotterdam September 24.

S. S. *Amsteldyk* (Dutch, Holland-America Line): Sailed from Philadelphia September 10, 1914, for Rotterdam. Captured by British cruiser and taken to Queenstown September 25; released; arrived at Rotterdam October 12.

S. S. *Rotterdam* (Dutch): Sailed from New York September 15, 1914, for Rotterdam. Cargo, copper. Shippers, American Smelting & Refining Co., United Metals Selling Co., American Can Metal Co., L. Vogelstein & Co., and Norfolk Smelting & Refining Co. Seized September 26, en route while copper was made conditional contraband (absolute contraband only since October 29). Copper bought by Great Britain. Arrived Rotterdam October 12.

S. S. *Slolerdijk* (Dutch): Sailed from New York September 9, 1914, for Rotterdam. Cargo, copper. Shippers, American Metal Co. (Ltd.) and L. Vogelstein & Co. Seized September 26, en route while copper was made conditional contraband (absolute contraband only since October 29). Copper bought by British Government. Arrived Rotterdam October 6, 1914.

S. S. *Potsdam* (Dutch): Sailed from New York September 22, 1914, for Rotterdam. Cargo, copper. Shippers, American Smelting & Refining Co., United Metals Selling Co., American Metal Co. (Ltd.), and L. Vogelstein & Co. Seized October 9. Copper bought by British Government. Arrived Rotterdam October 15.

S. S. *Westerdyk* (Dutch): Sailed from Baltimore September 21, 1914, for Rotterdam. Cargo, copper. Shipper, American Smelting & Refining Co. Seized October 9. Copper bought by British Government. Arrived Rotterdam October 18.

S. S. *Beta* (Swedish): Sailed from Philadelphia September 23, 1914, for Helsingborg and Oscarshamn. Detained and taken to Kirkwall for examination October 12. Arrived at Helsingborg October 21.

S. S. *Aquila* (Norwegian): Sailed from New York September 23, 1914, for Christiansand, Korsoer, and Copenhagen. Detained at Kirkwall October 12 for examination. Arrived at Copenhagen October 24.

S. S. *Nicholas Cuneo* (Norwegian): Sailed from New York September 26, 1914, for Christiania. Detained and taken to Kirkwall for examination October 12. Arrived at Christiania October 19.

S. S. *Noordam* (Dutch, Holland-America Line): Sailed from New York October 6, 1914, for Rotterdam. Cargo of about 13,000 tons consigned to Dutch Government. Wheat, flour, foodstuffs diverted to Falmouth October 15.

S. S. *Leander* (Norwegian): Sailed from New York September 25, 1914, for Copenhagen. Cargo, grain. Arrived at Kirkwall October 16; detained for general inspection; left October 17.

S. S. *Brindilla* (under American flag): Sailed from Bayonne, N. J., on October 13, 1914. Cargo, kerosene for Alexandria, Egypt. Steamer bought by Standard Oil Co. from Riedermann Line and transferred from German to American registry under Underwood amendment to the Panama Canal act of 1914. Seized by British cruiser *Caronia* just outside 3-mile limit off Sandy Hook October 18 and taken to Halifax, Nova Scotia. Submitted to prize court. Released. Left Halifax October 30.

S. S. *Dania* (Danish Scandinavian-American Line): Sailed from Philadelphia September 26, 1914, for Copenhagen. Cargo, general. Detained about one week at Kirkwall.

S. S. *John D. Rockefeller* (American): Sailed from Philadelphia September 27, 1914, for Copenhagen, Denmark. Captured and taken to Orkney Islands. At Kirkwall October 17. Released upon protest by United States after considerable delay.

S. S. *Prinz der Nederlanden* (Dutch, Royal Dutch West India Mail): Sailed from New York September 4, 1914, for Havre and Amsterdam by way of West Indian and Venezuelan ports. Taken at Falmouth on October 21; arrived at Amsterdam October 26.

S. S. *San* (American oil tank; Sun Oil Co., Philadelphia): Sailed from Philadelphia October 8, 1914, for Amsterdam. Diverted to Falmouth and released on October 25 at request of American Government; arrived at Amsterdam October 29.

S. S. *Marengo* (British): Sailed October 10, 1914, for Sweden. Cargo, copper. Shipper, L. Vogelstein & Co. Held at Hull October 25.

S. S. *Ascot* (British): Sailed from New York October 10, 1914, for Genoa. Cargo, copper. Consigned to order, but intended for delivery to Brown, Borari & Co., in Baden, Switzerland.

Shippers:	Tons.
American Smelting & Refining Co	450
United Metals Selling Co	500
American Metal Co. (Ltd.)	300
L. Vogelstein & Co	50
Norfolk Smelting & Refining Co	40
Total	1,340

Held at Gibraltar October 26 and seized; to prize court.

S. S. *San Giovanni* (Italian): Sailed from New York October 14, 1914, for Naples. Cargo, copper. Shippers, American Smelting & Refining Co. Held at Gibraltar October 26. Cargo suspected to be intended for reexport to Germany. Arrived Naples November 5.

S. S. *Regina D'Italia* (Italian): Sailed from New York October 15, 1914, for Naples and Genoa. Cargo, copper; 200 tons consigned to order, but intended for delivery to U. Vedorelli, Milan, Italy. Seized on October 26 at Gibraltar and held for prize court. Cargo suspected to be intended for reexport to Germany. Arrived Genoa November 11.

S. S. *John D. Archbold* (American, tank steamer, Standard Oil Co.): Sailed from New York September 23, 1914, for Italy. Cargo, oil. Held up by French cruiser and convoyed to Antibes, France;

detained two days pending decision as to whether cargo was contraband; finally released and allowed to proceed.

S. S. *Prosper III* (Norwegian): Sailed from New York October 3, 1914, for Copenhagen and Gothenburg. Cargo, copper; 1,343,895 pounds of copper, valued at $166,649, for Copenhagen; 246,361 pounds, valued at $30,559, for Gothenburg; also foodstuffs and crude rubber. Arrived at Leith October 27; detained at Scottish port and placed before the prize court, copper being suspected for reexport to Germany; arrived at Copenhagen November 12.

S. S. Security (American, Standard Oil Co., tug): On or about October 27, 1914, boarded and searched at St. John, New Brunswick, by Canadian soldiers, who detained three German members of the crew. Upon protest of captain men were released, but not allowed to leave Canada.

S. S. *Tyr* (Norwegian): Sailed from New York October 29, 1914, for Sweden. Cargo, copper. Shippers, United Metals Selling Co., L. Vogelstein & Co. Held at Glasgow November 2; arrived at Gothenburg December 17.

S. S. *Francisco* (British): Sailed from New York October 17, 1914, for Sweden. Cargo, copper. Shippers, L. Vogelstein & Co. Held at Hull November 2.

S. S. *Uller* (Norwegian): Sailed from Savannah, Ga., October 26, 1914, for Gothenburg. Cargo, cotton. Detained for inspection at Kirkwall and allowed to proceed.

S. S. *Italia* (Italian): Sailed from New York October 24, 1914, for Italy. Cargo, copper. Shippers, American Smelting & Refining Co., United Metals Selling Co., Norfolk Smelting & Refining Co. Held at Gibraltar November 8.

S. S. *Verona* (Italian): Sailed from New York October 24, 1914, for Naples, Genoa, and Palermo. Cargo, copper. Shippers, American Smelting & Refining Co., United Metals Selling Co. Held at Gibraltar November 8.

S. S. *Palermo* (Italian): Sailed from Boston October 20, 1914, to Naples and Genoa. Cargo, copper. Shippers, American Metal Co. (Ltd.); 300 tons; 200 tons of copper consigned to order but intended for Schweizer Metallwerke, Thonne, Switzerland. Held at Gibraltar November 2; to prize court; arrived November 7 at Naples.

S. S. *San Gugliemo* (Italian): Sailed from New York October 21, 1914, for Naples. Cargo, copper. Shippers, United Metals Selling Co. Held at Gibraltar November 8.

S. S. *Duca di Genoa* (Italian): Sailed from New York October 17, 1914, for Naples and Genoa. Cargo, copper. Shippers, American Smelting & Refining Co. Held at Gibraltar November 8.

S. S. *Antares* (Norwegian): Sailed October 22, 1914, for Sweden, Cargo, copper. Shippers, United Metals Selling Co., L. Vogelstein & Co. Held at Liverpool; arrived at Ardrossan November 9 for Gothenburg.

S. S. *Kroonland* (American): Sailed from New York October 15, 1914, for Italy. Cargo, copper and rubber. Copper shippers, American Smelting & Refining Co., United Metals Selling Co. Held November 8 at Gibraltar; ordered before prize court; arrived Naples November 11.

S. S. *Platuria* (American; entered under American registry in October, 1914, Standard Oil Co.; belonged formerly to Deutsch

Americanische Petroleum Gesellschaft, controlled by Standard Oil Co.): Sailed from New York October 5, 1914, for Aarhus, Denmark. Cargo, illuminating oil. Seized and taken to Stornoway, Lewis Islands, Scotland.

S. S. *Kiruna* (Swedish; Scandinavian-American Line): Sailed from New York October 25 for Swedish ports. Cargo, general. Detained four days at Kirkwall.

S. S. *Europa* (Italian; La Veloce Line): Sailed from New York October 28, 1914, for Naples and Genoa. Cargo, copper. Shippers, American Smelting & Refining Co. Detained at Gibraltar November 9; alleged contraband; arrived Naples November 13.

S. S. *Bjornstjerne Bjornson* (Norwegian; Gans Steamship Line): Sailed from New York October 28, 1914, for Copenhagen. Cargo, general. Taken into Kirkwall November 10; left Kirkwall November 15; ordered to Leith November 16; cargo discharged and seized December 21; steamer detained till May 25, 1915.

S. S. *Fridland* (Swedish): Sailed from New York October 28, 1914, for Copenhagen. Cargo, general, including meat. Taken into Kirkwall November 10; left Kirkwall November 27; ordered to Newcastle November 29; cargo discharged January 5, 1915; steamer detained till early in May, 1915.

S. S. *Idaho* (British): Sailed from New York October 24, 1914, for Sweden. Cargo, copper. Shippers, L. Vogelstein & Co. Held at Hull November 10; left Hull November 30 for New York.

S. S. *Perugia* (British): Sailed from New York November 8, 1914, for Italy. Cargo, copper. Shippers, United Metals Selling Co. Held at Gibraltar November 13.

S. S. *Fram* (Norwegian; Gans Steamship Line): Left Charleston, S. C., October 22, 1914, for Danish ports. Cargo, cotton. Taken into Aberdeen November 13; ordered to Hull; left Newcastle December 8; arrived at Nyborg December 18.

S. S. *Jos. W. Fordney* (American; American Exporters' Line): Sailed from New York November 7, 1914, for Copenhagen. Cargo, general. Taken into Falmouth and detained two days, then allowed to proceed.

S. S. *Taurus* (Norwegian): Sailed from New York November 1, 1914, for Italy. Cargo, copper. Shippers, United Metals Selling Co. Held at Glasgow November 13.

S. S. *Tabor* (Norwegian): Sailed from New York October 26, 1914, for Italy. Cargo, copper. Shippers, United Metals Selling Co. Norfolk Smelting & Refining Co. Held at Gibraltar November 13. To prize court. Left Gibraltar November 29.

S. S. *Alfred Nobel* (Norwegian, Gans Steamship Line): Sailed from New York October 20, 1914, for Copenhagen. Cargo, general, including meat. At Lerwick November 7. Left Lerwick November 14. Ordered to Liverpool; cargo discharged and seized November 17. Prize court. Released May 13, 1915.

S. S. *Toronto* (British): Sailed from New York October 31, 1914, for Sweden. Cargo, copper. Shippers, L. Vogelstein & Co. Held at Hull November 15.

S. S. *Sif* (Norwegian): Sailed from New York October 30, 1914, for Gothenburg. Cargo, copper. Four hundred tons sold and consigned to B. Ursells' successors, Stockholm, in order to meet ob-

jections to consignments "to order." Held at Glasgow November 18 for prize court. Arrived at Gothenburg December 17.

S. S. *Norheim* (Norwegian): Sailed October 17, 1914, for Italy. Cargo, copper. Shippers, United Metals Selling Co., L. Vogelstein Co. Held at Gibraltar November 18.

S. S. *Sigrun* (Norwegian): Left New York November 9, 1914, for Gothenburg and Malmoe. Seized November 26 and taken into Newport, England, December 2. Vessel detained pending search for suspected contraband. Cargo held for prize court included, for Gothenburg, 560,894 pounds of copper, valued at $70,047; 222 packages crude rubber, valued at $21,414; 1,596 barrels lubricating oil, valued at $8,778. For Malmoe, 1,009,532 pounds of copper, valued at $126,871; 600 barrels lubricating oil, valued at $3,300. For balance of cargo, consisting of oilcake, paraffine, corn oil, oats, cocoa, feed, tea, furs, engines and machinery, sewing machines, and oleo, reshipment allowed. Sailed for Gothenburg January 15, 1915. Arrived Gothenburg January 25. Arrived Malmoe February 16.

S. S. *Galileo* (British): Sailed from New York November 7, 1914, for Sweden. Cargo, copper. Shippers, L. Vogelstein & Co. Held at Hull November 26. Left Hull December 13 for New York.

S. S. *Kim* (Norwegian, Gans Steamship Line): Sailed from New York November 11, 1914, for Copenhagen. Cargo, general, including meat. Taken into Falmouth November 27; left December 4. Ordered to Newcastle December 8; cargo discharged and seized January 5, 1915. March 27, prize court ordered payment for cargo. Steamer detained until May 23, 1915.

S. S. *Tancred* (Norwegian, Gans Steamship Line): Left Port Arthur, Tex., November 13, 1914, for Danish ports. Cargo, cotton. Arrived at Falmouth; detained for inspection November 28. Left November 30. Arrived at Aarhus, Denmark, December 10, where cargo discharged.

S. S. *Strinda* (Norwegian, Gans Steamship Line): Sailed from New York November 14, 1914, for Copenhagen. Cargo, general. Taken into Falmouth November 29; after inspection allowed to proceed. Left December 3.

S. S. *Ran* (Norwegian): Sailed from New York November 13, 1914, for Liverpool and Sweden. Cargo, cottonseed products, copper, and leather; part for Liverpool, balance for Gothenburg and Malmoe. Taken into custody by British authorities November 29 and held as a prize; released December 26.

S. S. *Sandefjord* (Norwegian): Sailed from New York November 27, 1914, for Copenhagen. Cargo, cotton. Prize crew put on board outside of Sandy Hook. Arrived at Halifax November 30. Cargo partly discharged; suspected contraband. Arrived at Kirkwall January 15, 1915. Sailed January 16. Arrived at Copenhagen January 19.

S. S. *George Hawley* (American, American Exporters' Line; C. H. Sprague & Sons, Boston): Sailed from New York November 15 for Copenhagen. Cargo, general. Taken into Falmouth November 30; gave up ship's papers voluntarily for examination. Reason for detention: None given to master officially. Released January 2, 1915, and proceeded with full cargo to destination. Other circumstances: Master protested in writing on December 5, 1914. Master was verbally informed by customs officers that they would have to hold the

vessel on account of the flour, wheat, and oil on board. Later master was simply informed verbally that trouble was because the consignee of the 550 barrels of oil was at that time under suspicion by the British Government. On January 1, 1915, master was told to proceed with his full cargo on board, and no excuse or reason given for the 33 days' detention at Falmouth. Damage for detention at charter rates, etc., amounted to $14,000.

S. S. *Canton* (Swedish): Sailed from New York November 17, 1914, for Stockholm and Gothenburg. Cargo, copper, 375 tons. Shipper: American Smelting & Refining Co. Held December 1, the Tyne.

S. S. *Edward Pierce* (American, American Exporters' Line; C. H. Sprague & Son, Boston): Sailed from New York November 24, 1914, for Gothenburg and Copenhagen. Cargo, general. Taken into Falmouth December 8. On December 13 proceeded with full cargo. Master was told verbally he was detained on account of flour and peas on board, although both were consigned direct to parties in Copenhagen. No excuse or reason given for delay. Master was shown a telegram to customs officers reading, "American S. S. *Edward Pierce* with suspected cargo from New York expected Falmouth about 6th instant. If she comes in, send her immediately into harbor. (Signed) F. C. December 3, 6 p. m." Detention premeditated days ahead on mere suspicion. Damage for detention at charter rates, etc., amounted to $7,000.

S. S. *Herm* (Norwegian, Gans Steamship Line): Sailed from New York November 12, 1914, for Balboa, Oporto, Lisbon, Genoa, and Barcelona. Cargo, general. Stopped outside Lisbon; ordered to Gibraltar December 8. Released and sailed December 14.

S. S. *Maracas* (American): Sailed from New York December 9, 1914, for Genoa via Gibraltar and Naples. Brought into Halifax, Nova Scotia, by prize crew from British warship December 12. No reason given for detention by officer in charge. Later allowed to proceed to destination upon assurance that cargo not destined to enemy ports. Arrived Genoa January 10, 1915.

S. S. *Brindilla* (American, Standard Oil Co.): Sailed from Alexandria, Egypt, on or about November 26, 1914. Arrived at St. Michaels, Azores, to take an oil cargo from a German steamer on December 12. Reported leaving St. Michaels December 20 for Copenhagen. Intercepted off the coast of Scotland and taken to Aberdeen. (Second seizure.)

S. S. *Tellus* (Norwegian): Sailed from New York November 18, 1914, for Genoa. Cargo, 200 tons of copper; sold and consigned to U. Vedorelli, Milan. Seized and held at Gibraltar. Arrived Genoa December 28.

S. S. *A. A. Raven* (American): Sailed from Wilmington, Del., December 5, 1915, for Rotterdam. Cargo, cotton. (First steamer since war to reach Dutch port with cotton for Germany.) Arrived at Rotterdam December 24, 1914. Held up by British warship in channel; delayed 24 hours for examination of papers.

S. S. *Mirjam* (Norwegian): Sailed from New York November 24, 1914, for Copenhagen. Detained at Kirkwall December 16. Released January 15, 1915.

S. S. *Sorland* (Norwegian): Sailed from New York November 27, 1914, for Gothenburg. Cargo, 600 tons copper. Arrived at Leith December 27. Detained. Arrived at Gothenburg January 22, 1915.

S. S. *New Sweden* (Swedish): Sailed from New York December 6, 1914, for Sweden. Cargo, copper. Shippers: American Smelting & Refining Co. Arrived at Kirkwall December 21. Held at Shields December 28. Sailed January 10, 1915. Arrived at Gothenburg January 13.

S. S. *Ramsdal* (Norwegian): Sailed from New York November 28, 1914, for Christiania. Taken to Kirkwall December 21. Arrived at Leith December 24 in charge of a prize crew. Arrived at Christiania February 8, 1915.

S. S. *Zamoa* (Swedish): Sailed from New York December 8, 1914, for Copenhagen. Cargo, copper. Arrived at Kirkwall December 29. Arrived at Copenhagen January 11, 1915.

S. S. *Kentucky* (Danish): Sailed from Baltimore November 24, 1914, via New York for Copenhagen. Detained at Kirkwall December 16. Arrived at Leith December 29; 714 tons of meat consigned to Denmark thrown into prize court. Arrived at Copenhagen February 2, 1915.

S. S. *Virginia* (Danish): Sailed from Philadelphia December 3, 1914, for Copenhagen. At Kirkwall December 23. Arrived at Shields December 30, 1914.

S. S. *Greenbrier* (American, C. L. Dimon, New York): Sailed from New Orleans December 11, 1914 (via Norfolk December 17), for Bremen. Cargo, cotton; under certificate of British consul at New York. Stopped on December 30 by British cruiser; boarded and searched. British flag hoisted, and taken to Kirkwall. Detained three days and then taken to Leith and allowed to proceed to Bremen. Arrived at Bremen January 9, 1915.

S. S. *Tula* (American; Crucible Steel Co.): Sailed from New York December 1, 1914, for Copenhagen. Cargo, grain and flour. Seized by the British and detained at Leith. Upon investigation as to ultimate destination of cargo permitted to proceed on December 31. Sailed January 7, 1915, and arrived at Copenhagen January 11.

S. S. *Helig Olav* (Danish; Scandinavian-American Line): Sailed from New York December 3, 1914, for Christiansand and Copenhagen. Boarded at Kirkwall by British marines and detained eight days pending investigation as to character of cargo. Arrived at Copenhagen December 23, 1914.

S. S. *Arkansas* (Danish; chartered by Gans Steamship Co.): Sailed from New York December 11, 1914, for Copenhagen. Cargo, meat. Arrived at Shields in charge of a prize crew January 2, 1915. Arrived at Copenhagen January 22.

S. S. *Augusta* (Swedish): Sailed from New York December 9, 1914, for Gothenburg and Malmoe. Taken to Kirkwall. Arrived at Newcastle January 4, 1915, in charge of a prize crew. At Hartlepool January 10. Arrived at Gothenburg February 1.

S. S. *Oneka* (British): Sailed from New York January 2, 1915, for Piræus, Greece. Cargo, American oil (Standard Oil Co.), partly for Bulgaria and Greece. Detained at Malta, being suspected delivery to Turkey.

S. S. *Denver* (American; Mallory Steamship Co., New York): Sailed from Norfolk December 23, 1914, for Bremen. Cargo, cotton, loaded under supervision of British consul at Norfolk. Detained January 6, 1915, at Kirkwall. Released on representation.

S. S. *Governor* (American; Pacific Coast Co., New York): Detained by Canadian customs officials January 13, 1915, at Vancouver, British Columbia. Cargo, hides for San Francisco, Cal. Released after unloading hides.

S. S. *Oscar II* (Danish): Sailed from New York February 4, 1915, for Christiania and Copenhagen. Taken into Kirkwall and held for examination as to her cargo. Arrived at Copenhagen February 20.

S. S. *Vitalia* (Norwegian): Sailed from New York February 3, 1915, for Rotterdam. Cargo, packing products. Taken into Falmouth February 20. Released after cargo was consigned to Netherlands Oversea Trust.

S. S. *Antilla* (American; New York & Cuban Mail Steamship Co.): Sailed from New York February 9, 1915, for Malmoe and Copenhagen. Cargo, cattle food of various kinds. On February 24 stopped by British cruiser when in latitude 59–58 N., longitude 9–14 W. No reason given. British cruiser ordered vessel to proceed to Kirkwall with a prize crew on board, after four hours' detention while examining ship's papers. On March 9 was taken by British prize crew to Dundee. March 23 Admiralty discharged part of cargo in Dundee and reloaded the balance. On April 27 vessel was allowed to proceed with remainder of cargo. Alleged damage to vessel for detention, etc., amounted to $98,000. Certified to both by Danish and British consuls.

S. S. *Platuria* (American registry; controlled by Standard Oil Co.): Sailed from Philadelphia February 13, 1915, for Malmoe and Helsingborg. Detained at Kirkwall March 2.

S. S. *Pass of Balmha* (American): Sailed from New York January 30, 1915, for Bremen. Cargo, cotton. Detained at Kirkwall March 8. Released after inspection. Arrived at Bremen March 31.

S. S. *Vigilancia* (American; Walker, Armstrong & Co., Savannah): Sailed from Savannah, Ga., February 22, 1915, for Bremen. Cargo, cotton. Intercepted at sea by British cruiser; taken into Kirkwall. Arrived at Kirkwall March 8. Arrived at Bremen March 15.

S. S. *Grekland* (Swedish): Sailed from New York February 18, 1915, for Gothenburg. Cargo, American meat products. Held in Kirkwall from March 10 because destination of cargo suspected. Released and sailed April 1 for Gothenburg.

S. S. *A. A. Raven* (American): Sailed from New York February 13, 1915, for Rotterdam. Cargo, meat. Held at Deal March 12. Reconsigned to the Netherlands Oversea Trust. Arrived at Rotterdam April 2.

S. S. *Spyros Vallianos* (Greek): Sailed from Savannah, Ga., March 10, 1915, for Rotterdam. Cargo, cotton. Detained at Falmouth.

S. S. *Livonia* (Danish): Sailed from Galveston March 20, 1915, for Aalborg and Copenhagen. Held at Falmouth April 14; Bristol, May 6, pending settlement of price of cotton cargo.

S. S. *Seguranca* (American): Sailed from New York on March 9 for Holland. Cargo, general. Consigned to consignees in Holland. Detained by the British in April. The Department of State protested against the detention of the *Seguranca*, stating that the shipper's manifest showed that the entire cargo was consigned to Dutch consignees and was accompanied by a certificate from the British

consul general at New York, and that the loading of the vessel, moreover, had been supervised by the British consul general's inspector. The United States Government could not admit the right of the British Government to require that this cargo be reconsigned to the Netherlands Oversea Trust.

S. S. *Ogeechee* (American): Sailed from Bremen April 4, 1915, for New York. Arrived at Sharpness April 18. Cargo confiscated as being of German origin. Sailed for New York May 1. Arrived May 18.

S. S. *Southerner* (Danish): Sailed from Charleston, S. C., March 31, 1915, for Rotterdam. Cargo, cotton. Detained at Falmouth pending negotiations by Great Britain for the purchase of cotton on board. Arrived at Rotterdam April 28.

S. S. *Giovanning* (Italian): Detained, but allowed to proceed on April 20, 1915, without discharging her cargo.

S. S. *Kelbergen* (Dutch): Sailed from New York April 26, 1915, for Rotterdam. Taken into Kirkwall. Innocence of cargo established and released.

S. S. *Marie* (Swedish): Sailed from Galveston, Tex., March 13, 1915, for Malmoe, Sweden. Arrived at Clyde in charge of prize crew. Was stopped on suspicion regarding destination of cargo.

S. S. *Athinal* (Greek): Sailed from New York May 16, 1915, for Palermo and Piraeus. Arrived and seized at Gibraltar May 29. Permitted to proceed after discharging 400 bales of cotton and 1,200 reels of barbed wire. Placed before prize court, charge being destination for Germany.

S. S. *Gargoyle* (American; Vacuum Oil Co.; changed from German to American registry): Sailed from New York May 10, 1915, for Alexandria. Cargo, bulk oil. Reported at Malta May 31. Seized by British authorities and price-court writ issued.

S. S. *F. J. Lisman* (American): sailed from New York May 23, 1915, for Rotterdam. General cargo, consigned to Netherlands Oversea Trust. Held at London June 8, and 1,000 barrels of phosphate removed for disposition by prize court.

S. S. *Portland* (American): Sailed from San Francisco April 25, 1915, for Stockholm (via New York). Cargo, general. Detention at Kirkwall June 16. Taken to Blythe June 19, where 34 tons of dried fruit were sent to prize court. Arrived at Stockholm July 8.

S. S. *Varing* (Swedish): Sailed from Savannah, Ga., May 29, 1915, for Swedish port. Cargo, general. Detained at Kirkwall June 19.

S. S. *Bergensfjord* (Norwegian): Sailed from New York June 12, 1915, for Bergen. Cargo, general. Taken to Kirkwall June 21. Arrived at Bergen June 24.

S. S. *Nor* (Norwegian): Sailed from New York June 5, 1915, for Rotterdam. Held in the Downs for examination of cargo June 28.

S. S. *Muskogee* (American): Sailed from New Orleans June 7, 1915 (Newport News, June 14), for Gothenburg. Taken into Kirkwall July 5 and released July 7, for Gothenburg. Arrived July 9.

S. S. *Bratland* (Norwegian): Sailed from Baltimore June 15, 1915, for Aalborg, Denmark. Taken into Kirkwall July 6. Arrived at Aalborg July 12.

S. S. *Janna* (Norwegian): Sailed from San Francisco March 4, 1915, for Bergen, Norway. Cargo, grain. Taken into Kirkwall July 8. Arrived at Bergen July 19.

S. S. *Gurre* (Danish): Sailed from Baltimore July 1, 1915, for Aalborg, Denmark. Taken into Kirkwall July 19. Released July 23 and sailed for Aalborg and Randers.

S. S. *Hulda Maersk* (Danish): Sailed from Savannah, Ga., July 10, 1915 (Norfolk, July 13), for Malmoe. Cargo, cotton seed. Detained at Kirkwall. Arrived at Malmoe August 12.

S. S. *Neches* (American): Sailed from Rotterdam to the United States. Cargo, general. Detained at the Downs and brought to London, where cargo was discharged. The United States Government, July 15, 1915, made vigorous protest against the detention of the vessel and the unloading of the cargo, which was the property of American citizens, at London.

S. S. *Buffalo* (British): Sailed from New York August 18, 1915, for Christiana. Cargo, hacksaws. Arrive at Hull September 5. Thrown into prize court on the assertion that cargo was bound for Germany.

S. S. *Vitalia* (Norwegian): Sailed from New Work August 19, 1915, for Rotterdam. Cargo, meat. Detained at Falmouth, September 7, and thrown into prize court, the British Government's contention being that there were fats and oils in the cargo not consigned to the Netherlands Oversea Trust.

S. S. *Corning* (American; Standard Oil Co.): Sailed from Baton Rouge, La., August 17, 1915, for Malmoe. Cargo, refined petroleum and naphtha. Detained at Kirkwall September 7. Standard Oil Co. placed the case in the hands of the American Government. Released. Arrived at Malmoe September 28.

S. S. *Oscar II* (Swedish): Sailed from New York September 9, 1915, for Christiansand. Taken to Kirkwall. Sailed September 21.

S. S. *Louisiana* (Danish): Sailed from New York September 15, 1915, for Copenhagen. Arrived at Kirkwall "prior to October 1, 1915," and sent to Aberdeen to discharge part of her cargo.

S. S. *United States* (Danish): Sailed from New York August 26, 1915, for Copenhagen. Cargo, general. Had unloaded at Copenhagen when British Government ordered her to reload and to take cargo back to England under penalty of seizure.

S. S. *Helsingborg* (Swedish): Sailed from Port Arthur, Tex., August 28, 1915, via Norfolk for Aarhus, Denmark. Cargo, cotton seed. Detained at Kirkwall September 28. Arrived at Blyth October 3.

S. S. *California* (Danish): Sailed from New York August 31, 1915, for Christiania. Cargo, general. Detained September 29 at Leith.

S. S. *Absalom* (Danish): Sailed from Philadelphia September 12, 1915, for Copenhagen. Detained at Kirkwall.

S. S. *Origin* (Norwegian): Sailed from New York September 14, 1915, for Kirkwall and Vallo. Detained at Kirkwall.

S. S. *Petrolite* (American; Standard Oil Co.): Sailed from Philadelphia September 15, 1915, for Copenhagen. Detained at Kirkwall September 29. Arrived at Copenhagen October 8. (Had been previously detained by British authorities and released August 17, 1915.)

S. S. *St. John* (Swedish): Sailed from Baltimore September 12, 1915, for Gothenburg. Detained at Kirkwall. Arrived at Gothenburg October 8.

S. S. *Ester* (Swedish): Sailed from Port Tampa, Fla., September 5, 1915, for Newport News and Malmoe. Detained at Kirkwall September 30.

S. S. *Frederick VIII* (Danish): Sailed from New York September 22, 1915, for Copenhagen. Cargo, bacon. Ordered to unload at Kirkwall September 30.

S. S. *Osman* (Swedish): Sailed from New Orleans September 11, 1915, via Norfolk, for Copenhagen. Arrived at Kirkwall October 6. Released. Arrived at Copenhagen October 12, 1915.

S. S. *Conrad Mohr* (Norwegian): Sailed from Baton Rouge, La., September 15, 1915, via Norfolk, for Bergen. Arrived at Kirkwall October 7. Released. Arrived at Bergen October 11.

S. S. *Fram* (Norwegian): Sailed from Baltimore September 18, 1915, for Vaksdal. Arrived at Kirkwall October 7. Released. Arrived at Bergen October 11, 1915. Second seizure.

S. S. *Aladdin* (Norwegian): Sailed from New York September 21, 1915, for Stockholm. Brought to Kirkwall October 7. Released.

S. S. *Orion* (Swedish): Sailed from Philadelphia September 22, 1915, for Stockholm. Cargo, coal. Brought into Kirkwall October 10. Released October 14.

S. S. *Virginia* (Danish): Sailed from New York September 25, 1915, for Christiania and Copenhagen. Cargo, general. Taken to Kirkwall October 10. Taken to Grimsby October 19. To prize court.

S. S. *Mexicano* (Norwegian): Sailed from New Orleans September 24, 1915, for Christiania and Copenhagen. Cargo, general. Detained at Kirkwall. Sailed October 12, 1915, for Christiania.

S. S. *Hocking* (American; formerly Danish, purchased and transferred by American Transatlantic Steamship Co. to American registry July 31, 1915): Objected to by British alleging that she was purchased with German capital. Sailed from New York October 29, 1915, for Norfolk. Seized by British cruiser and taken to Halifax, N. S., October 31, in charge of prize crew convoyed by British warships. In charge of Admiralty Court.

S. S. *Hamborn* (Dutch; Munson Line): Sailed from New York October 27, 1915, for Cuba. Cargo, general. Halted 85 miles from New York by British cruiser. Taken to Halifax, N. S., October 31, by prize crew, convoyed by British warships. In charge of Admiralty Court.

S. S. *Llama* (American; Standard Oil Co.; formerly German, transferred to American registry): Sailed from New York October 14, 1915, for Copenhagen. Cargo, oil. Seized by British prize crew and afterwards run aground (October 31) on Skae Skerries, Westray Firth, Scotland.

S. S. *Athamas* (Greek): Sailed from Galveston October 15, 1915 (Norfolk Oct. 24), for Rotterdam. Seized and taken into British port November 18.

Andrew Welch (American bark; George W. McNear, San Francisco): Sailed from San Francisco August 19, 1915, for Halstad, Sweden. Cargo, beans. Boarded by British crew off the Shetland Islands and ordered into Lerwick. On account of storms carried toward Norway and towed into Christiansand by S. S. *Russland* November 17.

S. S. *Zealandia* (American): Sailed from Tampa September 15, 1915, for Sweden. Cargo, rosin, hides, rubber. Arrived at Pensacola September 27, left for Tampico October 3; arrived at Progreso October 25 bound for Malmoe, Sweden. Boarded and searched by British crew, according to captain, within 3-mile limit. Steamer still remains at Progreso on account of fear of capture.

S. S. *Kristianiafjord* (Norwegian): Sailed from New York November 6, 1915, for Bergen and Christiania. Cargo, general. Detained at Kirkwall; arrived at Bergen November 21. Compelled to return to England 6,000 cases of American pork, 1,800 bags of coffee, the ultimate destination of which having been questioned by British authorities.

S. S. *Genessee* (American; owned by American Transatlantic Co., New York): Sailed from New York October 11, 1915. Left Norfolk October 14 with cargo of coal for Montevideo. Seized and boarded by British prize crew. Ordered to St. Lucia November 20.

Statement of Secretary Lansing regarding vessels detained by British authorities:

SEPTEMBER 10, 1915.

(1) Vessels whose cargoes and papers have been of such a character as to require but brief time for examination have been held in British ports, according to this Government's information, for prolonged periods, in some instances for more than a month, and then released without the institution of prize-court proceedings.

The steamer *Chester*, which sailed from Baton Rougue for Rotterdam with a cargo of illuminating oil, was taken into Falmouth September 21, 1914, and held until November 4 of that year.

The steamer *Ocean*, carrying the same kind of a cargo, from New York to Rotterdam, was taken into Plymouth September 23, 1914, and similarly released November 5.

The steamer *Charlois* and the steamer *New York*, carrying similar cargoes, were taken into British ports on September 30 and October 12, 1914, respectively, and similarly released on October 27.

The steamers *American* and *Rotterdam*, carrying cargoes of oil to Rotterdam, were also detained under conditions similar to those of the vessels just mentioned in the fall of 1914.

The steamer *Christian Knudsen*, carrying a cargo of oil in bulk, consigned to a Danish corporation in Copenhagen, was brought into the port of Kirkwall, detained for 11 days, and then released.

Vessels carrying oil from the United States to long-established markets in Scandinavian countries have repeatedly been retained without being sent to the prize court for adjudication. Among them may be mentioned the *Brindilla*, the *Platuria*, the *Wico*, the *Polarine*, the *Pioneer*, the *Llama*, the *Muskogee*, and the *John D. Rockefeller*.

The steamer *Denver*, which carried a full cargo of cotton from Norfolk to Bremen and which had been loaded under the supervision of a British consular officer, was taken into Kirkwall in January last, as the department was informed by the British Government, just to examine her papers and to verify her cargo.

The *George W. Hawley* was held for a month because she refused to comply with a requirement of the British authorities to discharge a single shipment, the illegal destination of which does not appear

to have been disclosed by any evidence. The vessel carried a mixed cargo, including a shipment of oil. The British authorities insisted that the vessel should discharge the oil, which, the shipper represented, was consigned to one of its long-established agents in Sweden. Finally, it was announced that the vessel would be released as an act of grace.

The steamer *Wico* was held by the British authorities last March. This Government was advised that the British minister at Stockholm had informed the Swedish foreign office that the vessel had arrived in a British port with a full cargo of oil for a concern in Stockholm, and that, in view of the recent seizure by a German man-of-war of the steamship *Bryssel* and her cargo, the British Government required complete assurances from the Swedish Government before the *Wico* could be allowed to proceed to destination that she would not share the fate of the *Bryssel*.

Subsequently this Government was informed that the vessel had been allowed to proceed, but that the British Government felt that, in the event of further cargoes going to Stockholm being seized by German ships, the whole question of permitting oil cargoes to proceed to that destination would have to be seriously reconsidered.

The steamer *Llama*, carrying a cargo of oil to a Scandinavian port, was taken into Kirkwall and subsequently released on June 5 last. After departing from Kirkwall the ship was again arrested on June 6, and although the officer of the war vessel which seized the *Llama* apparently was shown the ship's release papers, he placed a prize crew on board and ordered the vessel to Aberdeen and thence to Leith, where she was finaly released on June 12, although she could not proceed until June 15, owing to a shortage of coal.

(2) Vessels have been held until they have reconsigned their cargoes to a consignee in a neutral country designated by the British Government.

The steamer *Seguranca*, which carried a general cargo from New York to the Netherlands, was detained at a great loss to the owners, of the vessel and to the shippers in a British port for the greater part of last April, in order that her cargo might be reconsigned to the Netherlands Oversea Trust. The manifest showed that the entire cargo was consigned to named consignees in the Netherlands and was accompanied by a certificate of the British consul general in New York, stating that the loading was supervised by his inspector and that the vessel contained no cargo other than that specified in the manifest. A large part of the cargo, consisting of fresh fruit stored in the hold of the vessel, was subject to decay with great rapidity.

A similar requirement was imposed on the steamer *F. J. Lisman*, which during last June was detained in London. It appears that, after a prolonged detention of the ship of over a month, representatives of the shippers were compelled to discharge both contraband and noncontraband articles, and that the captain and the shippers finding their efforts to comply with the requirements of the British authorities hopeless, abandoned the voyage.

The steamers *A. A. Raven* and *Vitalia*, carrying articles listed as conditional contraband, were detained in a British port in March last until the goods shipped to specified consignees in Holland could be consigned to the Netherlands Oversea Trust.

The steamer *Neches* was detained last May for about two weeks in order that a shipment of cotton destined for Rotterdam might be consigned to the Netherlands Oversea Trust.

The steamer *Zeandjik* was detained last June, as the department was informed, while the British minister at The Hague made inquiries as to whether the Netherlands Oversea Trust had accepted the consignment of the cargo.

(3) Detentions have been made without evidence amounting to probable cause.

The steamer *Annam*, which was detained at Kirkwall last April, carried a cargo of food products from the United States to Swedish ports. She was detained owing to a "suspicion," as the British Government stated, that a part of its cargo was destined for Germany.

The steamer *Dronning Olga* was detained at Kirkwall in April last and the cargo, which consisted of cotton and food products, was placed in the prize court on the ground, as the department was informed by the British Government, that it was "believed" that it was ultimately destined for Germany.

The steamer *Hilding*, which sailed from New York for Copenhagen with a general cargo consisting largely of food products, was seized and taken into Leith last April, and this Government was informed that the cargo had been seized as contraband with the expectation of holding it under the order in council of March 11, 1915, if the charge that the goods were contraband should fail.

Numerous similar instances might be cited.

The steamers *Christian Knudsen* and *Platuria*, carrying oil from New York to Denmark, were detained by the British authorities last fall, taken into British ports, and held until the British Government, as they stated, could make an investigation as to the destination of the cargoes. Furthermore, this Government was informed that the vessels had been detained pending the receipt of guaranties from Denmark against the exportation of the cargoes and that the orders were given for the release of the vessels on the receipt of satisfactory guaranties.

The steamer *Brindilla*, which sailed from New York October 13 last, with a cargo of oil for Alexandria, was taken into port at Halifax and later released, as the department was informed, when the British authorities received information that the ship's cargo was expected at Alexandria.

The steamer *Ambra* was taken into a British port in July last, and this Government was informed that this vessel was held pending inquiries that had been instituted concerning destination of certain items of her cargo. About a week later the vessel was allowed to proceed.

In July last this Government was informed by the British Government that the prolonged detention of the oil steamers *Polarine*, *Platuria*, and *Pioneer* was due to the fact that His Majesty's Government's attention had latterly been drawn to the very large quantities of oil which had been shipped to Scandinavian countries during the last few months; that there had been every reason to suspect that some of the oil was destined for enemy countries; and that the arrival of the steamers in quick succession necessitated the institution of inquiries as to the ultimate destination of the oil.

The owners of these vessels and their cargoes complained to the Government of the United States against their detention, stating that the vessels carried the usual cargoes consigned in good faith to long-established subsidiaries in neutral countries, and further representing that, since supplies from Russia and Roumania had been prevented from entering Scandinavian ports, a large increase of business with them had been expected, but it had been found that during the first five months of the year 1915 total shipments of all petroleum products to these countries were less than for the same period last year, although business in previous years had steadily increased.

(4) Vessels have been held, according to statements of the British Government, because of the manner in which shipments have been consigned.

The steamer *Einerjarl* was brought into Kirkwall last May and its cargo of cottonseed cake, shipped from Newport News to Denmark, which the shippers represented was to be used exclusively for consumption in Denmark, was seized. This Government was informed that the cargo was discharged because it was consigned "to order."

The steamers *Alfred Nobel*, *Bjorstjerne Bjornsen*, and *Friedland* were seized last autumn because their cargoes were consigned "to order."

The shipments on the steamers *America* and *Artemis* have been placed in prize court under the order in council of March 11, 1915, because, the goods being consigned by the shippers to themselves, there was no guaranty of their ultimate destination.

(5) Goods have been seized by the British Government on the ground, as this Government has been informed, that the country to which they were shipped had not prohibited their export.

In the fall of the year 1914 copper shipped from the United States to Sweden on the steamers *Francisco*, *Antares*, *Idaho*, *Tyr*, and *Toronto* was seized by the British authorities because, as the British Government stated, the Swedish Government had not yet prohibited the reexportation of copper from Sweden.

A consignment of rubber on the Swedish ship *Zamore* had been placed in prize court last January, because, as the British Government stated, of the absence of a comprehensive prohibition on the exportation of rubber in all its forms from Denmark.

(6) The British authorities have repeatedly seized articles classified as contraband articles classified as conditional contraband, as well as noncontraband goods, shipped to Scandinavian countries, to the Netherlands, and to Italy, then neutral, although the reexportation of such commodities from these countries had been forbidden.

In December last the steamer *Tellus* was ordered to discharge a shipment of copper shipped from New York directly to a consignee in Milan, Italy, although by an Italian decree of November 13, 1914, the exportation of goods shipped in this manner was forbidden.

The steamer *Joseph W. Fordney* was seized 4 miles off the coast of Norway, and in charge of a prize crew brought into Kirkwall April 8 last. The ship's manifest showed that the cargo consisted entirely of cattle fodder consigned to a person in Malmo, Sweden. It appeared from information presented to this Government that an affidavit regarding the character and destination of the cargo, made by the shipper of the entire cargo, was attached to the bill of lading,

and that this affidavit contained a certification by the British consul general and the Swedish consul, and also a statement by the latter to the effect that the exportation from Sweden of the goods of which the cargo consisted was prohibited. The vessel was brought into a British port and her cargo discharged. This Government was informed by the British Government that, apart from the uncertainty of the address of the consignee of the cargo of this vessel, His Majesty's Government had evidence that the cargo was not destined for bona fide Swedish consumption, but was intended for Germany.

Numerous other similar instances might be cited, including those of the detention of vessels carrying oil to Scandinavian ports which have been mentioned.

(7) Detentions have been made pending assurances that embargoed goods would be allowed to pass through a neutral country to Great Britain's allies.

The steamer *Leelanaw*, which carried a cargo of cotton from Galveston to Gothenburg for transshipment to Moscow, was detained in a British port early in June last. Relative to the detention of this vessel the British Foreign Office said:

"In view of the fact that cotton has now been placed on the Swedish prohibition of export list, His Majesty's Government have not considered it advisable to allow this large cargo to go on to Gothenburg until they are assured that there is a fair chance of it reaching its declared ultimate destination."

After nearly a month's detention the vessel was released on the understanding that she should proceed directly to Archangel.

The steamers *Jentland* and *Syrius* appear to have been recently detained under circumstances similar to those of the steamer *Leelanaw*.

(8) From time to time this Government has been informed of the seizure of cargoes on the ground that consignees have been known to trade with the enemy or because they were suspected of doing so.

In January last this Government was advised by the British Government that the British Government had been compelled to place in prize court a consignment of rubber on board the Swedish vessel *Zamora*, the consignee of these goods being regarded with grave suspicion, and there being reason to believe that the ultimate destination of the rubber was the enemy forces.

(9) Vessels have been seized and brought into port and have been required by the British authorities to pay pilotage, harbor, unloading, warehouse, storage, or other dues, costs and expenses in advance of a judicial determination of the validity of the seizure of vessel or cargo.

Instances of such treatment of vessels may be found in the cases of the detention of the steamer *Neches* last May, the *Ogeechee*, which was seized last April, and the *Antilla*, which was seized in February last and subjected to a prolonged detention. In the case of the last-mentioned ship it appears, however, that the cost of discharging was borne by the British Government.

(10) Detention of vessels proceeding from European ports.

The steamer *Ogeechee*, which left Bremen April 3 last for the United States was detained at Sharpness and compelled to discharge its entire cargo, which consisted of approximately 200 shipments of

goods urgently needed by American citizens. In most, if not all, cases it appears that ownership of these goods at the time of the seizure had passed to American consignees. In many instances American citizens had contracted for the sale of the goods consigned to them and were prevented from carrying out their contracts.

The release of shipments on the vessel has been allowed on the production of proofs of American ownership of the goods prior to March 11, 1915. American consignees in order to avoid loss have endeavored to comply with the requirements in the presentation of proofs.

The steamer *Neches*, which sailed from Rotterdam to the United States, was brought to London and compelled, in June last, to discharge cargo, on the ground, apparently, that the goods originated partly in Belgium. The vessel was detained about a month, and after having been damaged to the extent of approximately £1,500 as a result of a collision with another vessel while under the control of the British Admiralty, and after having been involved in litigation growing out of such collision was allowed to proceed.

The following is a list of the vessels detained prior to March 11 last, among which are some regarding the detention of which details have been briefly stated in this memorandum:

Platuria, Brindilla, John D. Rockefeller, Kroonland, Noordam, Rotterdam, Sandefjord, Thomas J. Fordney, Fram, Edward Pierce, Ellen, Tellus, Sif, Kim, Canton, Ogeechee, Friedland, Gallileo, Uller, Verona, Zuiderdijk, Greenbrier, Herm, Arkansas, Ascot, Carolyn, Breiford, Bergensfjord, Bjornstjerne, Bjornsen, Ida Cuneo, Kentucky, General Minetonka, General Caloric, Denver.

It will be noted how the various orders in council were modifying the rules of international law by gradually eliminating almost all the conditional contraband by declaring it absolute, applying a practical blockade of neutral coasts by the simple extension of contraband.

This question came up for a test in the case of the *Wilhelmina*, a vessel loaded with foodstuffs, consigned to an American citizen for distribution to the noncombatants in Germany:

American note, February 15, 1915, regarding the *Wilhelmina*.

(The Secretary of State to the American ambassador at London.)

The department notes that you have been informed by the British Government that the cargo of the American steamer *Wilhelmina* has been sent to prize court, but is not yet unloaded. The Government of the United States, of course, has no intention of interfering with the proper course of judicial procedure in the British prize courts, but it deems it proper to bring to the attention of the British Government information which has been received in relation to the character and destination of the cargo and to point out certain considerations prompting the supposition that the seizure may not be justified.

This Government is informed that the W. L. Green Commission Co., an American corporation organized in 1891, which in the past has made extensive shipments of goods to Germany, is the sole owner of the cargo which consists entirely of foodstuffs consigned to the W. L. Green Commission Co., Hamburg, and that the company's

manager, now in Europe, has instructions to sell the cargo solely to the civilian population of Hamburg. A copy of the ship's manifest has been submitted to this Government, accompanied by a sworn statement from the company's manager, in which he represents that he was instructed to proceed to Germany to dispose of the cargo to private purchasers in that country, and not to any belligerent Government nor armed forces of such Government, nor to any agent of a belligerent Government or of its armed forces.

According to well-established practice among nations, admitted, as this Government understands, by the Government of Great Britain, the articles of which the *Wilhelmina's* cargo is said to consist are subject to seizure as contraband only in case they are destined for the use of a belligerent Government or its armed forces. The Government of the United States understands that the British authorities consider the seizure of the cargo justified on the ground that a recent order of the Federal Council of Germany, promulgated after the vessel sailed, required the delivery of imported articles to the German Government. The owners of the cargo have represented to this Government that such a position is untenable. They point out that, by a provision of the order in question as originally announced, the regulations in relation to the seizure of food products are made inapplicable to such products imported after January 31, 1915. They further represent that the only articles shipped on the *Wilhelmina* which are embraced within the terms of these regulations are wheat and bran, which constitute about 15 per cent of the cargo as compared with 85 per cent consisting of meats, vegetables, and fruits. The owners also assert that the regulations contemplate the disposition of foodstuffs to individuals through municipalities; that municipalities are not agents of the Government, and that the purpose of the regulations is to conserve the supply of food products and to prevent speculation and inflation of prices to noncombatants.

The German Government has addressed a formal communication to the Government of the United States in relation to the effect of the decree issued by the German Federal Council, and this Government deems it pertinent to call to the attention of the British Government a material portion of this communication, which is as follows:

"1. The federal council's decision concerning the seizure of food products, which England alleges to be the cause of food products shipped to Germany being treated as contraband, bears exclusively on wheat, rye, both unmixed and mixed with other products, and also wheat, rye, oats, and barley flour.

"2. The federal council makes an express exception in section 45 of the order. Section 45 provides as follows: 'The stipulations of this regulation do not apply to grain or flour imported from abroad after January 31.'

"3. Conjunctively with that saving clause the federal council's order contains a provision under which imported cereals and flours would be sold exclusively to the municipalities or certain specially designated organizations by the importers. Although that provision had for its object simply to throw imported grain and flours into such channels as supply the private consumption of civilians and, in consequence of that provision, the intent and purpose of the federal council's order which was to protect the civilian population from

speculators and engrossers were fully met, it was nevertheless rescinded so as to leave no room for doubt.

"4. My Government is amenable to any proposition looking to control by a special American organization under the supervision of the American consular officers and, if necessary, will itself make a proposition in that direction.

"5. The German Government further calls attention to the fact that municipalities do not form part of or belong to the Government, but are self-administrative bodies, which are elected by the inhabitants of the commune in accordance with fixed rules and therefore exclusively represent the private part of the population and act as it directs. Although those principles are generally known and obtain in the United States as well as in England itself, the German Government desired to point out the fact so as to avoid any further unnecessary delay.

"6. Hence it is absolutely assured that imported food products will be consumed by the civilian population in Germany exclusively."

It will be observed that it is stated in this communication, which appears to confirm the contentions of the cargo owners, that a part of the order of the German Federal Council relating to imported food products has now been rescinded.

This Government has received another communication from the German Government giving formal assurance to the Government of the United States that all goods imported into Germany from the United States, directly or indirectly, which belong to the class of States in the sea area defined in the German declaration, since such practice would greatly endanger the vessels of a friendly power navigating those waters and would even seem to impose upon the Government of Great Britain a measure of responsibility for the loss of American lives and vessels in case of an attack by a German naval force.

Please present a note to Sir Edward Grey in the sense of the foregoing and impress him with the grave concern which this Government feels in the circumstances in regard to the safety of American vessels and lives in the war zone declared by the German Admiralty.

You may add that this Government is making earnest representations to the German Government in regard to the danger to American vessels and citizens if the declarations of the German Admiralty is put into effect.

BRYAN.

On the 19th of February, nine days after our note was dispatched, Great Britain replied as follows:

British memorandum, February 19, 1915, regarding the *Wilhelmina*.

(The secretary of State for foreign affairs to the American ambassador.)

The communication made by the United States ambassador in his note to Sir Edward Grey, of the 16th instant, has been carefully considered, and the following observations are offered in reply:

2. At the time when His Majesty's Government gave directions for the seizure of the cargo of the steamship *Wilhelmina* as contraband they had before them the text of the decree made by the Ger-

man Federal Council on the 25th of January, under article 45 of which all grain and flour imported into Germany after the 31st of January was declared deliverable only to certain organizations under direct government control or to municipal authorities. The vessel was bound for Hamburg, one of the free cities of the German Empire, the government of which is vested in the municipality. This was one of the reasons actuating His Majesty's Government in deciding to bring the cargo of the *Wilhelmina* before the prize court.

3. Information has only now reached them that by a subsequent decree, dated the 6th of February, the above provision in article 45 of the previous decree was repealed, it would appear, for the express purpose of rendering difficult the anticipated proceedings against the *Wilhelmina*. The repeal was not known to His Majesty's Government at the time of detention of the cargo, or, indeed, until now.

4. How far the ostensible exception of imported supplies from the general Government monopoly of all grain and flour set up by the German Government may affect the question of the contraband nature of the shipment seized is a matter which will most suitably be investigated by the prize court.

5. It is, however, necessary to state that the German decree is not the only ground on which the submission of the cargo of the *Wilhelmina* to a prize court is justified. The German Government have in public announcements claimed to treat practically every town or port on the English east coast as a fortified place and base of operations. On the strength of this contention they have subjected to bombardment the open towns of Yarmouth, Scarborough, and Whitby, among others. On the same ground a number of neutral vessels sailing for English ports on the east coast with cargoes of goods on the German list of conditional contraband have been seized by German cruisers and brought before the German prize court. Again, the Dutch vessel *Maria*, having sailed from California with a cargo of grain consigned to Dublin and Belfast, was sunk in September last by the German cruiser *Karlsruhe*. This could only have been justified if, among other things, the cargo could have been proved to be destined for the British Government or armed forces, and if a presumption to this effect had been established owing to Dublin or Belfast being considered a fortified place or a base for the armed forces.

6. The German Government can not have it both ways. If they consider themselves justified in destroying by bombardment the lives and property of peaceful civil inhabitants of English open towns and watering places and in seizing and sinking ships and cargoes of conditional contraband on the way thither on the ground that they were consigned to a fortified place or base, "a fortiori," His Majesty's Government must be at liberty to treat Hamburg, which is in part protected by fortifications at the mouth of the Elbe, as a fortified town and a base of operations and supply for the purposes of article 34 of the declaration of London. If the owners of the cargo of the *Wilhelmina* desire to question the validity in international law of the action taken by order of His Majesty's Government, they will have every opportunity of establishing their case in due course before the prize court, and His Majesty's Government would, in this connection, recall the attention of the United States Government to the considerations put forward in Sir Edward Grey's note to Mr. Page of the

10th instant as to the propriety of awaiting the result of prize-court proceedings before diplomatic action is initiated. It will be remembered that they have from the outset given a definite assurance that the owners of the *Wilhelmina*, as well as the owners of her cargo, if found not to be contraband, would be equitably indemnified.

7. There is one further observation to which His Majesty's Government think it right and appropriate in the present connection to give expression. They have not so far declared foodstuffs to be absolute contraband. They have not interfered with any neutral vessels on account of their carrying foodstuffs, except on the basis of such foodstuffs being liable to capture if destined for the enemy forces or Governments. In so acting they have been guided by the general principle, of late universally upheld by civilized nations and observed in practice, that the civil populations of countries at war are not to be exposed to the treatment rightly reserved for combatants. This distinction has to all intents and purposes been swept away by the novel doctrines proclaimed and acted upon by the German Government.

8. It is unnecessary here to dwell upon the treatment that has been meted out to the civil population of Belgium and those parts of France which are in German occupation. When Germany, long before any mines had been laid by British authorities, proceeded to sow mines upon the high seas, and by this means sunk a considerable number not only of British but also of neutral merchantmen, with their unoffending crews, it was, so His Majesty's Government held, open to them to take retaliatory measures, even if such measures were of a kind to involve pressure of the civil population—not, indeed, of neutral States but of their enemies. They refrained from doing so.

9. When subsequently English towns and defenseless British subjects, including women and children, were deliberately and systematically fired upon and killed by ships flying the flag of the Imperial German Navy, when quiet country towns and villages void of defenses and possessing no military or naval importance were bombarded by German airships, His Majesty's Government still abstained from drawing the logical consequences from this form of attack on defenseless citizens. Further steps in the same direction are now announced, and, in fact, have already been taken by Germany. British merchant vessels have been torpedoed at sight, without any attempt being made to give warning to the crew or any opportunity being given to save their lives; a torpedo has been fired against a British hospital ship in daylight, and similar treatment is threatened to all British merchant vessels in future, as well as to any neutral ships that may happen to be found in the neighborhood of the British Isles.

10. Faced with this situation, His Majesty's Government consider it would be altogether unreasonable that Great Britain and her allies should be expected to remain indefinitely bound, to their grave detriment, by rules and principles of which they recognize the justice if impartially observed as between belligerents, but which are at the present moment openly set at defiance by their enemy.

11. If therefore His Majesty's Government should hereafter feel constrained to declare foodstuffs absolute contraband or to take other measures for interfering with German trade by way of reprisals, they confidently expect that such action will not be challenged on the part

of neutral States by appeals to laws and usages of war whose validity rests on their forming an integral part of that system of international doctrine which as a whole their enemy frankly boasts the liberty and intention to disregard, so long as such neutral States can not compel the German Government to abandon methods of warfare which have not in recent history been regarded as having the sanction of either law or humanity. (Dip. Corr. 82-83.)

A month and a half later, April 8, Britain submitted the following memorandum:

British memorandum, April 8, 1915, in reference to the *Wilhelmina.*

(The prime minister to the American ambassador.)

His Majesty's Government share the desire of the United States Government for an immediate settlement of the case of the *Wilhelmina.* This American ship, laden with foodstuffs, left New York for Hamburg on January 22. She called at Falmouth of her own accord on February 9, and her cargo was detained as prize on February 11. The writ instituting prize-court proceedings was issued on February 27, and claimed that the cargo should be condemned as contraband of war. No proceedings were taken or even threatened against the ship herself, and in the ordinary course the cargo would have been unloaded when seized, so that the ship would be free to leave. The owners of the cargo, however, have throughout objected to the discharge of her cargo, and it is because of this objection that the ship is still at Falmouth with the cargo on board.

His Majesty's Government have formally undertaken that, even should the condemnation of the cargo as contraband be secured in the prize court, they would none the less compensate the owners for any loss sustained in consequence of the ship having been stopped and proceedings taken against the cargo.

It was understood at the time that the proceedings in the prize court would be in the nature of a test case, the decision in which would govern the treatment of any subsequent shipments of food supplies to Germany in similar circumstances. Since then the situation has, however, materially changed by the issue of the order in council of March 11, 1915, and the measures taken thereunder which prevent further supplies being sent from America to Germany, whether contraband or not.

In these circumstances there is no longer an object in continuing the judicial proceedings in the case of the *Wilhelmina*, for it can no longer serve as a test case, and it is really agreed that the owners of the cargo, even if proved to have no claim, are to be treated as if their claim was good. Nothing therefore remains but to settle the claim on proper and just conditions, and this would, in the opinion of His Majesty's Government, be secured most expeditiously and with the least inconvenience to all parties by an agreement between the Crown and the claimants for the disposal of the whole matter. His Majesty's Government accordingly propose that such an agreement be arrived at on the following terms: "His Majesty's Government having undertaken to compensate the claimants by paying for the cargo seized on the basis of the loss of the profit the claimants would have made if the ship had proceeded in due course to Ham-

burg, and by indemnifying them for the delay caused to the ship so far as this delay has been due to the action of the British authorities, all proceedings in the prize court shall be stayed on the understanding that His Majesty's Government buy the cargo from the claimants on the above terms. The cargo shall be discharged and delivered to the proper office of the Crown forthwith. The sum to be paid shall be assessed by a single American and His Majesty's principal secretary of state for foreign affairs, who shall certify the total amount after making such inquiries as he may think fit, but without formal hearing or arbitration." His Majesty's Government would be grateful if the United States ambassador would inform the claimants of the above proposal at his early convenience and obtain their acceptance.

In the meantime the United States undertook to protect the use of the American flag from belligerent vessels.

On the 10th of February, 1915, the following note was addressed to Great Britain:

American memorandum, February 10, 1915, concerning the use of the American flag by British vessels. (See No. 24.)

(The Secretary of State to the American ambassador at London.)

The department has been advised of the declaration of the German Admiralty on February 4, indicating that the British Government had on January 31 explicitly authorized the use of neutral flags on British merchant vessels, presumably for the purpose of avoiding recognition by German naval forces. The department's attention has also been directed to reports in the press that the captain of the *Lusitania*, acting upon orders or information received from the British authorities, raised the American flag as his vessel approached the British coasts, in order to escape anticipated attacks by German submarines. To-day's press reports also contain an alleged official statement of the foreign office defending the use of the flag of a neutral country by a belligerent vessel in order to escape capture or attack by an enemy.

Assuming that the foregoing reports are true, the Government of the United States, reserving for future consideration the legality and propriety of the deceptive use of the flag of a neutral power in any case for the purpose of avoiding capture, desires very respectfully to point out to His Britannic Majesty's Government the serious consequences which may result to American vessels and American citizens if this practice is continued.

The occasional use of the flag of a neutral or an enemy under the stress of immediate pursuit and to deceive an approaching enemy, which appears by the press reports to be represented as the precedent and justification used to support this action, seems to this Government a very different thing from an explicit sanction by a belligerent Government for its merchant ships generally to fly the flag of a neutral power within certain portions of the high seas which are presumed to be frequented with hostile warships. The formal declaration of such a policy of general misuse of a neutral's flag jeopardizes the vessels of the neutral visiting those waters in a peculiar degree by raising the presumption that they are of belligerent nationality regardless of the flag which they may carry.

In view of the announced purpose of the German Admiralty to engage in active naval operations in certain delimited sea areas adjacent to the coasts of Great Britain and Ireland, the Government of the United States would view with anxious solicitude any general use of the flag of the United States by British vessels traversing those waters. A policy such as the one which His Majesty's Government is said to intend to adopt would, if the declaration of the German Admiralty is put in force, it seems clear, afford no protection to British vessels, while it would be a serious and constant menace to the lives and vessels of American citizens.

The Government of the United States therefore trusts that His Majesty's Government will do all in their power to restrain vessels of British nationality from the deceptive use of the flag of the United States in the sea area defined in the German declaration, since such practice would greatly endanger the vessels of a friendly power navigating those waters and would even seem to impose upon the Government of Great Britain a measure of responsibility for the loss of American lives and vessels in case of an attack by a German naval force.

Please present a note to Sir Edward Grey in the sense of the foregoing and impress him with the grave concern which this Government feels in the circumstances in regard to the safety of American vessels and lives in the war zone declared by the German Admiralty.

You may add that this Government is making earnest representations to the German Government in regard to the danger to American vessels and citizens if the declaration of the German Admiralty is put into effect.

BRYAN.

On the 19th, or just nine days later, Britain sent the following reply:

British memorandum, February 19, 1915, concerning the use of the American flag by British vessels. (See No. 19.)

(The secretary of state for foreign affairs to the American ambassador.)

The memorandum communicated on the 11th of February calls attention in courteous and friendly terms to the action of the captain of the British S. S. *Lusitania* in raising the flag of the United States of America when approaching British waters and says that the Government of the United States feel a certain anxiety in considering the possibility of any general use of the flag of the United States by British vessels traversing those waters, since the effect of such a policy might be to bring about a menace to the lives and vessels of United States citizens.

It was understood that the German Government had announced their intention of sinking British merchant vessels at sight by torpedoes without giving any opportunity of making any provision for saving the lives of noncombatant crews and passengers. It was in consequence of this threat that the *Lusitania* raised the United States flag on her inward voyage and on her subsequent outward voyage. A request was made by the United States passengers who were embarking on board her that the United States flag should be hoisted, presumably to insure their safety. Meanwhile the mem-

orandum from your excellency had been received. His Majesty's Government did not give any advice to the company as to how to meet this request, and it is understood that the *Lusitania* left Liverpool under the British flag.

It seems unnecessary to say more as regards the *Lusitania* in particular regard to the use of foreign flags by merchant vessels. The British merchant shipping act makes it clear that the use of the British flag by foreign merchant vessels is permitted in time of war for the purpose of escaping capture. It is believed that in the case of some other nations there is a similar recognition of the same practice with regard to their flags and that none have forbidden it. It would therefore be unreasonable to expect His Majesty's Government to pass legislation forbidding the use of foreign flags by British merchant vessels to avoid capture by the enemy. Now that the German Government have announced their intention to sink merchant vessels at sight with their noncombatant crews, cargoes, and papers, a proceeding hitherto regarded by the opinion of the world not as war but as piracy, it is felt that the United States Government could not fairly ask the British Government to order British merchant vessels to forego the means—always hitherto permitted—of escaping not only capture but the much worse fate of sinking and destruction. Great Britain has always when neutral accorded to the vessels of other States at war liberty to use the British flag as a means of protection against capture, and instances are on record when United States vessels availed themselves of this facility during the American Civil War. It would be contrary to fair expectation if now, when the conditions are reversed, the United States and neutral nations were to grudge to British ships liberty to take similar action. The British Government have no intention of advising their merchant shipping to use foreign flags as general practice or to resort to them otherwise than for escaping capture or destruction.

The obligation upon a belligerent warship to ascertain definitely for itself the nationality and character of a merchant vessel before capturing it and a fortiori before sinking and destroying it has been universally recognized. If that obligation is fulfilled, hoisting a neutral flag on board a British vessel can not possibly endanger neutral shipping, and the British Government hold that if loss to neutrals is caused by disregard of this obligation it is upon the enemy vessel disregarding it and upon the government giving orders that it should be disregarded that the sole responsibility for injury to neutrals ought to rest. (Dip. Corr. 59.)

On the following day, February 20, our Government addressed simultaneous notes to both Great Britain and Germany proposing mutual concessions on the sea:

[American note, Feb. 20, 1915, proposing mutual concessions in the conduct of naval warfare.]

THE SECRETARY OF STATE TO THE AMERICAN AMBASSADOR AT LONDON—SAME TO THE AMERICAN AMBASSADOR AT BERLIN.

You will please deliver to Sir Edward Grey the following identic note, which we are sending England and Germany:

In view of the correspondence which has passed between this Government and Great Britain and Germany, respectively, relative to the

declaration of a war zone by the German Admiralty and the use of neutral flags by British merchant vessels, this Government ventures to express the hope that the two belligerent Governments may, through reciprocal concessions, find a basis for agreement which will relieve neutral ships engaged in peaceful commerce from the great dangers which they will incur in the high seas adjacent to the coasts of the belligerents.

The Government of the United States respectfully suggests that an agreement in terms like the following might be entered into. This suggestion is not to be regarded as in any sense a proposal made by this Government, for it, of course, fully recognizes that it is not its privilege to propose terms of agreement between Great Britain and Germany, even though the matter be one in which it and the people of the United States are directly and deeply interested. It is merely venturing to take the liberty which it hopes may be accorded a sincere friend desirous of embarrassing neither nation involved and of serving, if it may, the common interests of humanity. The course outlined is offered in the hope that it may draw forth the views and elicit the suggestions of the British and German Governments on a matter of capital interest to the whole world.

Germany and Great Britain to agree:

1. That neither will sow any floating mines, whether upon the high seas or in territorial waters; that neither will plant on the high seas anchored mines except within cannon range of harbors for defensive purposes only; and that all mines shall bear the stamp of the Government planting them and be so constructed as to become harmless if separated from their moorings.

2. That neither will use submarines to attack merchant vessels of any nationality except to enforce the right of visit and search.

3. That each will require their respective merchant vessels not to use neutral flags for the purpose of disguise or ruse de guerre.

Germany to agree:

That all importations of food or foodstuffs from the United States (and from such other neutral countries as may ask it) into Germany shall be consigned to agencies to be designated by the United States Government; that these American agencies shall have entire charge and control without interference on the part of the German Government of the receipt and distribution of such importations, and shall distribute them solely to retail dealers bearing licenses from the German Government entitling them to receive and furnish such food and foodstuffs to noncombatants only; that any violation of the terms of the retailers' licenses shall work a forefeiture of their rights to receive such food and foodstuffs for this purpose; and that such food and foodstuffs will not be requisitioned by the German Government for any purpose whatsoever or be diverted to the use of the armed forces of Germany.

Great Britain to agree:

That food and foodstuffs will not be placed upon the absolute contraband list and that shipments of such commodities will not be interfered with or detained by British authorities if consigned to agencies designated by the United States Government in Germany for the receipt and distribution of such cargoes to licensed German retailers for distribution solely to the noncombatant population.

In submitting this proposed basis of agreement this Government does not wish to be understood as admitting or denying any belligerent or neutral right established by the principles of international law, but would consider the agreement, if acceptable to the interested powers, a modus vivendi based upon expediency rather than legal right and as not binding upon the United States either in its present form or in a modified form until accepted by this Government.

BRYAN.

Eight days later Germany agreed to concede.[1] On the 13th of March, or three weeks later, the British reply was received.

British memorandum, March 13, 1915, rejecting the American proposal of February 20.

(The secretary of state for foreign affairs to the American ambassador.)

On the 22d of February last I received a communication from your excellency of the identic note addressed to His Majesty's Government and to Germany, respecting an agreement on certain points as to the conduct of the war at sea. The reply of the German Government to this note has been published, and it is not understood from the reply that the German Government are prepared to abandon the practice of sinking British merchant vessels by submarines, and it is evident from their reply that they will not abandon the use of mines for offensive purposes on the high seas as contrasted with the use of mines for defensive purposes only within cannon range of their own harbors, as suggested by the Government of the United States. This being so, it might appear unnecessary for the British Government to make any further reply than to take note of the German answer. We desire, however, to take the opportunity of making a fuller statement of the whole position and of our feeling with regard to it. We recognize with sympathy the desire of the Government of the United States to see the European war conducted in accordance with the previously recognized rules of international law and the dictates of humanity. It is thus that the British forces have conducted the war, and we are not aware that these forces, either naval or military, can have laid to their charge any improper proceedings either in the conduct of hostilities or in the treatment of prisoners or wounded. On the German side it has been very different.

1. The treatment of civilian inhabitants in Belgium and the north of France has been made public by the Belgian and French Governments and by those who have had experience of it at first-hand. Modern history affords no precedent for the sufferings that have been inflicted on the defenseless and noncombatant population in the territory that has been in German military occupation. Even the food of the population was confiscated until in Belgium an international commission, largely influenced by American generosity and conducted under American auspices, came to the relief of the population and secured from the German Government a promise to spare what food was still left in the country, though the Germans still continue to make levies in money upon the defenseless population for the support of the German Army.

[1] See page 19.

2. We have from time to time received most terrible accounts of the barbarous treatment to which British officers and soldiers have been exposed after they have been taken prisoner while being conveyed to German prison camps; one or two instances have already been given to the United States Government, founded upon authentic and first-hand evidence which is beyond doubt. Some evidence has been received of the hardships to which British prisoners of war are subjected in the prison camps, contrasting, we believe, most unfavorably with the treatment of German prisoners in this country. We have proposed, with the consent of the United States Government, that a commission of United States officers should be permitted in each country to inspect the treatment of prisoners of war. The United States Government have been unable to obtain any reply from the German Government to this proposal, and we remain in continuing anxiety and apprehension as to the treatment of British prisoners of war in Germany.

3. At the very outset of the war a German mine layer was discovered laying a mine field on the high seas. Further mine fields have been laid from time to time without warning, and, so far as we know, are still being laid on the high seas, and many neutral as well as British vessels have been sunk by them.

4. At various times during the war German submarines have stopped and sunk British merchant vessels, thus making the sinking of merchant vessels a general practice, though it was admitted previously, if at all, only as an exception, the general rule to which the British Government has adhered being that merchant vessels, if captured, must be taken before a prize court. In one case already quoted in a note to the United States Government a neutral vessel carrying foodstuffs to an unfortified town in Great Britain has been sunk. Another case is now reported in which a German armed cruiser has sunk an American vessel, the *William P. Frey*, carrying a cargo of wheat from Seattle to Queenstown. In both cases the cargoes were presumably destined for the civil population. Even the cargoes in such circumstances should not have been condemned without the decision of a prize court, much less should the vessels have been sunk. It is to be noted that both these cases occurred before the detention by the British authorities of the *Wilhelmina* and her cargo of foodstuffs which the German Government allege is the justification for their own action. The Germans have announced their intention of sinking British merchant vessels by torpedo without notice and without any provision for the safety of the crew. They have already carried out this intention in the case of neutral as well as of British vessels, and a number of noncombatant and innocent lives on British vessels, unarmed and defenseless, have been destroyed in this way.

5. Unfortified, open, and defenseless towns, such as Scarborough, Yarmouth, and Whitby, have been deliberately and wantonly bombarded by German ships of war, causing in some cases considerable loss of civilian life, including women and children.

6. German aircraft have dropped bombs on the east coast of England, where there were no military or strategic points to be attacked. On the other hand, I am aware of but two criticisms that have been made on British action in all these respects: (1) It is said that the

British naval authorities also have laid some anchored mines on the high seas. They have done so, but the mines were anchored and so constructed that they would be harmless if they went adrift, and no mines whatever were laid by the British naval authorities till many weeks after the Germans had made a regular practice of laying mines on the high seas. (2) It is said that the British Government has departed from the view of international law which they had previously maintained that foodstuffs destined for the civil population should never be interfered with, this charge being founded on the submission to a prize court of the cargo of the *Wilhelmina*. The special considerations affecting this cargo have already been presented in a memorandum to the United States Government, and I need not repeat them here. Inasmuch as the stoppage of all foodstuffs is an admitted consequence of blockade, it is obvious that there can be no universal rule based on considerations of morality and humanity which is contrary to this practice. The right to stop foodstuffs destined for the civil population must therefore in any case be admitted if an effective "cordon" controlling intercourse with the enemy is drawn, announced, and maintained. Moreover, independently of rights arising from belligerent action in the nature of blockade, some other nations, differing from the opinion of the Governments of the United States and Great Britain, have held that to stop the food of the civil population is a natural and legitimate method of bringing pressure to bear on an enemy country, as it is upon the defense of a besieged town. It is also upheld on the authority of both Prince Bismarck and Count Caprivi, and therefore presumably is not repugnant to German morality. The following are the quotations from Prince Bismarck and Count Caprivi on this point. Prince Bismarck, in answering, in 1885, an application from the Kiel Chamber of Commerce for a statement of the view of the German Government on the question of the right to declare as contraband foodstuffs that were not intended for military forces, said: "I reply to the chamber of commerce that any disadvantage our commercial and carrying interests may suffer by the treatment of rice as contraband for war does not justify our opposing a measure which it has been thought fit to take in carrying on a foreign war. Every war is a calamity which entails evil consequences not only on the combatants but also on neutrals. These evils may easily be increased by the interference of a neutral power with the way in which a third carries on the war to the disadvantage of the subjects of the interfering power, and by this means German commerce might be weighted with far heavier losses than a transitory prohibition of the rice trade in Chinese waters. The measure in question has for its object the shortening of the war by increasing the difficulties of the enemy and is a justifiable step in war if impartially enforced against all neutral ships." Count Caprivi, during a discussion in the German Reichstag on the 4th of March, 1892, on the subject of the importance of international protection for private property at sea, made the following statements: "A country may be dependent for her food or for her raw products upon her trade. In fact, it may be absolutely necessary to destroy the enemy's trade." * * * "The private introduction of provisions into Paris was prohibited during the siege, and in the same way a nation would be justified in preventing the import of food and raw

produce." The Government of Great Britain have frankly declared in concert with the Government of France their intention to meet the German attempt to stop all supplies of every kind from leaving or entering British or French ports by themselves effectively controlling by cruiser "cordon" all passage to and from Germany by sea. The difference between the two policies is, however, that while our object is the same as that of Germany we propose to attain it without sacrificing neutral ships or noncombatant lives or inflicting upon neutrals the damage that must be entailed when a vessel and its cargo are sunk without notice, examination, or trial. I must emphasize again that this measure is a natural and necessary consequence of the unprecedented methods, repugnant to all law and morality, which have been described above, which Germany began to adopt at the very outset of the war, and the effects of which have been constantly accumulating. (Dip. Corr., 64–65.)

On the 1st of March, 1915, the British prime minister read a statement to Parliament on the restraint of commerce on the seas:

British and French declarations, March 1, 1915, in restraint of seaborne commerce with Germany. (Statement read by the British prime minister in the House of Commons and communicated to the neutral powers.)

(The British ambassador at Washington to the Secretary of State.)

Germany has declared that the English Channel, the north and west coasts of France, and the waters around the British Isles are a war area, and has officially notified that all enemy ships found in that area will be destroyed and that neutral vessels may be exposed to danger. This is in effect a claim to torpedo at sight, without regard to the safety of the crew or passengers, any merchant vessel under any flag. As it is not in the power of the German admiralty to maintain any surface craft in these waters, this attack can only be delivered by submarine agency.

The law and customs of nations in regard to attacks on commerce have always presumed that the first duty of the captor of a merchant vessel is to bring it before a prize court, where it may be tried, where the regularity of the capture may be challenged, and where neutrals may recover their cargoes. The sinking of prizes is in itself a questionable act, to be resorted to only in extraordinary circumstances and after provision has been made for the safety of all the crew or passengers, if there are passengers on board. The responsibility for discriminating between neutral and enemy vessels and between neutral and enemy cargo obviously rests with the attacking ship, whose duty it is to verify the status and character of the vessel and cargo and to preserve all papers before sinking or even capturing it. So also is the humane duty of providing for the safety of the crews of merchant vessels, whether neutral or enemy, an obligation upon every belligerent.

It is upon this basis that all previous discussions of the law for regulating warfare at sea have proceeded. A German submarine, however, fulfills none of these obligations; she enjoys no local command of the waters in which she operates; she does not take her cap-

tures within the jurisdiction of a prize court; she carries no prize crew which she can put on board a prize; she uses no effective means of discriminating between a neutral and an enemy vessel; she does not receive on board for safety the crew and passengers of the vessel she sinks; her methods of warfare are therefore entirely outside the scope of any of the international instruments regulating operations against commerce in time of war. The German declaration substitutes indiscriminate destruction for regulated capture. Germany is adapting these methods against peaceful traders and noncombatant crews with the avowed object of preventing commodities of all kinds, including food for the civil poulation, from reaching or leaving the British Isles or northern France.

Her opponents are therefore driven to frame retaliatory measures in order in their turn to prevent commodities of any kind from reaching or leaving Germany. These measures will, however, be enforced by the British and French Governments without risk to neutral ships or to neutral or noncombatant life and in strict observance of the dictates of humanity. The British and French Governments will therefore hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership, or origin. It is not intended to confiscate such vessels or cargoes unless they would otherwise be liable to condemnation. The treatment of vessels and cargoes which have sailed before this date will not be affected.

CECIL SPRING RICE.

Three days later, March 4, Congress passed the following resolution:

Resolution of Congress, March 4, 1915, safeguarding the neutrality of American waters.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this resolution, and during the existence of a war to which the United States is not a party, and in order to prevent the neutrality of the United States from being violated by the use of its territory, its ports, or its territorial waters, as the base of operations for the armed forces of a belligerent, contrary to the obligations imposed by the law of nations, the treaties to which the United States is a party, or contrary to the statutes of the United States, the President be, and he is hereby, authorized and empowered to direct the collectors of customs under the jurisdiction of the United States to withhold clearance from any vessel of American or foreign registry or license which he has reasonable cause to believe to be about to carry fuel, arms, ammunition, men, or supplies to any warship, or tender, or supply ships of a belligerent nation in violation of the obligations of the United States as a neutral nation.

In case any such vessel of American register or license shall depart or attempt to depart from the jurisdiction of the United States without clearance for any of the purposes, the owner or master or person or persons having charge or command of such vessel shall severally be liable to a fine of not less than $2,000 nor more than $10.000, or to imprisonment not to exceed two years, or both; and in addition such vessels shall be forfeited to the United States.

That the President of the United States be, and he is hereby, authorized and empowered to employ such part of the land or naval

forces of the United States as shall be necessary to carry out the purposes of this resolution.

That the provisions of this resolution shall be deemed to extend to all lands and water, continental or insular, within the jurisdiction of the United States. (New York Times, Mar. 4, 1915.)

The next day, March 5, inquiry was directed to Great Britain on the proposed restraint of sea-borne commerce:

American note, March 5, 1915, inquiring how the restraint upon sea-borne commerce with Germany is to be effected.

(The Secretary of State to the American ambassador at London.)

In regard to the recent communications received from the British and French Governments concerning restraints upon commerce with Germany, please communicate with the British foreign office in the sense following:

The difficulty of determining action upon the British and French declarations of intended retaliation upon commerce with Germany lies in the nature of the proposed measures in their relation to commerce by neutrals.

While it appears that the intention is to interfere with and take into custody all ships, both outgoing and incoming trading with Germany, which is in effect a blockade of German ports, the rule of blockade, that a ship attempting to enter or leave a German port regardless of the character of its cargo may be condemned, is not asserted.

The language of the declaration is: "The British and French Governments will therefore hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership, or origin. It is not intended to confiscate such vessels or cargoes unless they would otherwise be liable to condemnation."

The first sentence claims a right pertaining only to a state of blockade. The last sentence proposes a treatment of ships and cargoes as if no blockade existed. The two together present a proposed course of action previously unknown to international law.

As a consequence neutrals have no standard by which to measure their rights or to avoid danger to their ships and cargoes. The paradoxical situation thus created should be changed and the declaring powers ought to assert whether they rely upon the rules governing a blockade or the rules applicable when no blockade exists.

The declaration presents other perplexities.

The last sentence quoted indicates that the rules of contraband are to be applied to cargoes detained. The rule covering noncontraband articles carried in neutral bottoms is that the cargoes shall be released and the ships allowed to proceed. This rule can not, under the first sentence quoted, be applied as to destination. What, then, is to be done with a cargo of noncontraband goods detained under the declaration? The same question may be asked as to conditional contraband cargoes.

The foregoing comments apply to cargoes destined for Germany. Cargoes coming out of German ports present another problem under the terms of the declaration. Under the rules governing enemy exports only goods owned by enemy subjects in enemy bottoms are sub-

ject to seizure and condemnation. Yet by the declaration it is purposed to seize and take into port all goods of enemy "ownership and origin." The word "origin" is particularly significant. The origin of goods destined to neutral territory on neutral ships is not and never has been a ground for forfeiture except in case a blockade is declared and maintained. What, then, would the seizure amount to in the present case except to delay the delivery of the goods? The declaration does not indicate what disposition would be made of such cargoes if owned by a neutral or if owned by an enemy subject. Would a different rule be applied according to ownership? If so, upon what principles of international law would it rest? And upon what rule if no blockade is declared and maintained could the cargo of a neutral ship sailing out of a German port be condemned? If it is not condemned, what other legal course is there but to release it?

While this Government is fully alive to the possibility that the methods of modern naval warfare, particularly in the use of the submarine for both defensive and offensive operations, may make the former means of maintaining a blockade a physical impossibility, it feels that it can be urged with great force that there should be also some limit to "the radius of activity," and especially so if this action by the belligerents can be construed to be a blockade. It would certainly create a serious state of affairs if, for example, an American vessel laden with a cargo of German origin should escape the British patrol in European waters only to be held up by a cruiser off New York and taken into Halifax.

Similar cablegram sent to Paris.

BRYAN.

Ten days later—March 15—the British reply, as follows, was received:

British note, March 15, 1915, replying to the American inquiry about the restraint on sea-borne commerce with Germany.

(The secretary of state for foreign affairs to the American ambassador.)

1. His Majesty's Government have had under careful consideration the inquiries which, under instructions from your Government, your excellency addressed to me on the 8th instant regarding the scope and mode of application of the measures, foreshadowed in the British and French declarations of the 1st of March, for restricting the trade of Germany. Your excellency explained and illustrated by reference to certain contingencies the difficulty of the United States Government in adopting a definite attitude toward these measures by reason of uncertainty regarding their bearing upon the commerce of neutral countries.

2. I can at once assure your excellency that, subject to the paramount necessity of restricting German trade, Mis Majesty's Government have made it their first aim to minimize inconvenience to neutral commerce. From the accompanying copy of the order in council, which is to be published to-day, you will observe that a wide discretion is afforded to the prize court in dealing with the trade of neutrals in such manner as may in the circumstances be deemed just and that full provision is made to facilitate claims by persons interested in any goods placed in the custody of the marshal of the prize court under the order. I apprehend that the perplexities to which your

excellency refers will for the most part be dissipated by the perusal of this document and that it is only necessary for me to add certain explanatory observations.

3. The effect of the order in council is to confer certain powers upon the executive officers of His Majesty's Government. The extent to which those powers will be actually exercised and the degree of severity with which the measures of blockade authorized will be put into operation are matters which will depend on the administrative orders issued by the Government and the decisions of the authorities specially charged with the duty of dealing with individual ships and cargoes, according to the merits of each case. The United States Government may rest assured that the instructions to be issued by His Majesty's Government to the fleet and to the customs officials and executive committees concerned will impress upon them the duty of acting with the utmost dispatch consistent with the object in view and of showing in every case such consideration for neutrals as may be compatible with that object, which is, succinctly stated, to establish a blockade to prevent vessels from carrying goods for or coming from Germany.

4. His Majesty's Government have felt most reluctant at the moment of initiating a policy of blockade to exact from neutral ships all the penalties attaching to a breach of blockade. In their desire to alleviate the burden which the existence of a state of war at sea must inevitably impose on neutral sea-borne commerce, they declare their intention to refrain altogether from the exercise of the right to confiscate ships or cargoes which belligerents have always claimed in respect of breaches of blockade. They restrict their claim to the stopping of cargoes destined for or coming from the enemy's territory.

5. As regards cotton, full particulars of the arrangements contemplated have already been explained. It will be admitted that every possible regard has been had to the legitimate interests of the American cotton trade.

6. Finally, in reply to the penultimate paragraph of your excellency's note, I have the honor to state that it is not intended to interfere with neutral vessels carrying enemy cargo of noncontraband nature outside European waters, including the Mediterranean.

On the same day the order in council in restraint of sea-borne trade was issued:

British order in council, March 11, 1915, in restraint of sea-borne commerce with Germany.

Whereas the German Government has issued certain orders which, in violation of the usages of war, purport to declare the waters surrounding the United Kingdom a military area, in which all British and allied merchant vessels will be destroyed, irrespective of the safety of the lives of passengers and crew, and in which neutral shipping will be exposed to similar danger in view of the uncertainties of naval warfare; and

Whereas in a memorandum accompanying the said orders neutrals are warned against intrusting crews, passengers, or goods to British or allied ships; and

Whereas such attempts on the part of the enemy give to His Majesty an unquestionable right of retaliation; and

Whereas His Majesty has therefore decided to adopt further measures in order to prevent commodities of any kind from reaching or leaving Germany, though such measures will be enforced without risk to neutral ships or to neutral or noncombatant life and in strict observance of the dictates of humanity; and

Whereas the allies of His Majesty are associated with him in the steps now to be announced for restricting further the commerce of Germany:

His Majesty is therefore pleased, by and with the advice of his privy council, to order and it is hereby ordered as follows:

1. No merchant vessel (sic) which sailed from her port of departure after the 1st of March, 1915, shall be allowed to proceed on her voyage to any German port.

Unless the vessel receives a pass enabling her to proceed to some neutral or allied port to be named in the pass, goods on board any such vessel must be discharged in a British port and placed in the custody of the marshal of the prize court. Goods so discharged, not being contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the court, upon such terms as the court may in the circumstances deem to be just, to the persons entitled thereto.

2. No merchant vessel which sailed from any German port after the 1st of March, 1915, shall be allowed to proceed on her voyage with any goods on board laden at such port.

All goods laden at such port must be discharged in a British or allied port. Goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and if not requisitioned for the use of His Majesty shall be detained or sold under the direction of the prize court. The proceeds of goods so sold shall be paid into court and dealt with in such manner as the court may in the circumstances deem to be just.

Provided, That no proceeds of the sale of such goods shall be paid out of court until the conclusion of peace, except on the application of the proper officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this order.

Provided also, That nothing herein shall prevent the release of neutral property laden at such enemy port on the application of the proper officer of the Crown.

3. Every merchant vessel which sailed from her port of departure after the 1st of March, 1915, on her way to a port other than a German port, carrying goods with an enemy destination or which are enemy property, may be required to discharge such goods in British or allied port. Any goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and, unless they are contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the court upon such terms as the court may in the circumstances deem to be just to the person entitled thereto.

Provided, That this article shall not apply in any case falling within articles 2 or 4 of this order.

4. Every merchant vessel which sailed from a port other than a German port after the 1st of March, 1915, having on board goods

which are of enemy origin or are enemy property may be required to discharge such goods in a British or allied port. Goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and if not requisitioned for the use of His Majesty shall be detained or sold under the direction of the prize court. The proceeds of goods so sold shall be paid into court and dealt with in such manner as the court may in the circumstances deem to be just.

Provided, That no proceeds of sale of such goods shall be paid out of court until the conclusion of peace, except on the application of the proper officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this order.

Provided also, That nothing herein shall prevent the release of neutral property of enemy origin on the application of the proper officer of the Crown.

5. Any person claiming to be interested in, or to have any claim in respect of, any goods (not being contraband of war) placed in the custody of the marshal of the prize court under this order, or in the proceeds of such goods, may forthwith issue a writ in the prize court against the proper officer of the Crown and apply for an order that the goods should be restored to him, or that their proceeds should be paid to him, or for such other order as the circumstances of the case may require.

The practice and procedure of the prize court shall, so far as applicable, be followed mutatis mutandis in any proceedings consequential upon this order.

6. A merchant vessel which has cleared for a neutral port from a British or allied port, or which has been allowed to pass, having an ostensible destination to a neutral port, and proceeds to an enemy port, shall, if captured on any subsequent voyage, be liable to condemnation.

7. Nothing in this order shall be deemed to affect the liability of any vessel or goods to capture or condemnation independently of this order.

8. Nothing in this order shall prevent the relaxation of the provisions of this order in respect of the merchant vessels of any country which declares that no commerce intended for or originating in Germany or belonging to German (sic) subjects shall enjoy the protection of its flag.

Eight days later, on March 23, the order in council authorizing the requisition of neutral ships was published:

British order in council, March 23, 1915, authorizing the requisition of neutral ships. Presented by the solicitor of the Crown in an argument in favor of requisitioning the cargo of foodstuffs on the *Wilhelmina*.

Whereas by section 3 of the prize courts act, 1894, His Majesty in council is authorized to make rules of court for regulating, subject to the provisions of the naval prize act, 1864, and the said act, the procedure and practice of prize courts within the meaning of the naval prize act, 1864, and the duties and conduct of the officers of the courts and of the practitioners therein, and for regulating the fees to be taken by the officers thereof, and the costs, charges, and expenses to be allowed to the practitioners therein; and

Whereas in pursuance of the prize courts act, 1894, certain rules were made by the order of His Majesty in council, dated the 5th day of August, 1914, and amended by the orders of His Majesty in council of the 30th day of September, 1914, and the 28th day of November, 1914, respectively, which said rules and amended rules were by the said orders in council directed to take effect provisionally in accordance with the provisions of section 2 of the rules publication act, 1893, from the dates of the said orders in council, respectively; and

Whereas the provisions of section 1 of the rules publication act, 1893, were duly complied with in respect of the said rules and amended rules, and the same were finally made by the orders of His Majesty in council, dated, respectively, the 17th day of September, 1914, the 28th day of November, 1914, and the 3d day of February, 1915; and

Whereas it is expedient that the said rules and amended rules should be further amended; and

Whereas on account of urgency this order should come into immediate operation:

Now, therefore, His Majesty, by virtue of the powers in this behalf by the said act or otherwise in him vested, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, as follows:

1. That in order 9 (discovery, inspection, and admission of documents and facts) of the said rules:

In rule 1, the words "upon filing an affidavit" shall be omitted.

In rule 1, instead of the words "any other party" there shall be substituted the words "any party other than the proper officer of the Crown."

2. That in order 11 (sale, appraisement, safe custody, and inspection of prize) of the said rules, in rule 1, the following words shall be omitted: "On account of the condition of a ship, or on application of a claimant, and on or after condemnation."

3. That in order 15 (evidence and hearing) of the said rules the following rule shall be added:

"21. Notwithstanding anything contained in these rules the proper officer of the Crown may apply to the judge for leave to administer interrogatories for the examination of any person whether a party to the cause or not."

4. That order 29 (requisition by Admiralty) of the said rules, as amended by His Majesty's order in council dated the 28th day of November, 1914, shall be, and the same is hereby, revoked, and in lieu thereof the following order shall have effect:

"ORDER 29.—REQUISITION.

"1. Where it is made to appear to the judge on the application of the proper officer of the Crown that it is desired to requisition on behalf of His Majesty a ship in respect of which no final decree of condemnation has been made, he shall order that the ship shall be appraised, and that upon an undertaking being given in accordance with rule 5 of this order, the ship shall be released and delivered to the Crown.

"2. Where a decree for the detention of a ship has been made in accordance with order 28, the proper officer of the Crown may file a notice (Appendix A, Form No. 55) that the Crown desires to requisition the same, and thereupon a commission (Appendix A, Form No. 56) to the marshal directing him to appraise the ship shall issue. Upon an undertaking being given in accordance with rule 5 of this order the ship shall be released and delivered to the Crown. Service of this notice shall not be required before filing, but copies thereof shall be served upon the parties by the proper officer of the Crown as soon thereafter as possible.

"3. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the ship is required for th service of His Majesty forthwith, the judge may order the same to be forthwith released and delivered to the Crown without appraisement.

"4. In any case where a ship has been requisitioned under the provisions of this order, and whether or not an appraisement has been made, the court may, on the application of any party, fix the amount to be paid by the Crown in respect of the value of the ship.

"5. In every case of requisition under this order an undertaking in writing shall be filed by the proper officer of the Crown for payment into court on behalf of the Crown of the appraised value of the ship, or of the amount fixed under rule 4 of this order, as the case may be, at such time or times as the court shall declare by order that the same or any part thereof is required for the purpose of payment out of court.

"6. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the Crown desires to requisition the ship temporarily, the court may, in lieu of an order of release, make an order for the temporary delivery of the ship to the Crown, and, subject as aforesaid, the provisions of this order shall apply to such a requisition; provided that, in the event of the return of the ship to the custody of the court, the court may make such order as it thinks fit for the release of the undertaking given on behalf of the Crown or the reduction of the amount undertaken to be paid thereby, as the case may be; and provided also that, where the ship so requisitioned is subject to the provisions of order 28, rule 1, relating to detention, the amount for which the Crown shall be considered liable in respect of such requisition shall be the amount of damage, if any, which the ship has suffered by reason of such temporary delivery as aforesaid.

"7. The proceedings in respect of a ship requisitioned under this order shall continue notwithstanding the requisition.

"8. In any case of requisition of a ship in respect of which no cause has been instituted, any person interested in such ship may, without issuing a writ, provided he does not intend to make a claim for restitution or damages, apply by summons for an order that the amount to be paid in respect of such ship be fixed by the court, and the judge may, on the hearing of such summons, order the ship to be appraised or to be valued, or give such other directions for fixing the amount as he may think fit."

5. That in Form 4 in Appendix A to the said rules there shall be omitted the words "commander of our ship of war" and the words "taken and seized as prize by our said ship of war."

6. This order shall take effect provisionally in accordance with the provisions of section 2 of the rules-publication act, 1893, from the date hereof. (Dip. Corr., 72–73.)

Three days later, March 30, 1915, our Government addressed a note on the British violation of neutral rights:

American note, March 30, 1915, regarding British violation of neutral rights.

(The Secretary of State to the American ambassador at London.)

You are instructed to deliver the following to His Majesty's Government in reply to your Nos. 1795 and 1798 of March 15:

The Government of the United States has given careful consideration to the subjects treated in the British notes of March 13 and March 15, and to the British order in council of the latter date.

These communications contain matters of grave importance to neutral nations. They appear to menace their rights of trade and intercourse not only with belligerents but also with one another. They call for frank comment in order that misunderstandings may be avoided. The Government of the United States deems it its duty, therefore, speaking in the sincerest spirit of friendship, to make its own view and position with regard to them unmistakably clear.

The order in council of the 15th of March would constitute, were its provisions to be actually carried into effect as they stand, a practical assertion of unlimited belligerent rights over neutral commerce within the whole European area, and an almost unqualified denial of the sovereign rights of the nations now at peace.

This Government takes it for granted that there can be no question what those rights are. A nation's sovereignty over its own ships and citizens under its own flag on the high seas in time of peace is, of course, unlimited; and that sovereignty suffers no diminution in time of war, except in so far as the practice and consent of civilized nations has limited it by the recognition of certain now clearly determined rights, which it is conceded may be exercised by nations which are at war.

A belligerent nation has been conceded the right of visit and search, and the right of capture and condemnation if, upon examination, a neutral vessel is found to be engaged in unneutral service or to be carrying contraband of war intended for the enemy's government or armed forces. It has been conceded the right to establish and maintain a blockade of an enemy's ports and coasts and to capture and condemn any vessel taken in trying to break the blockade. It is even conceded the right to detain and take to its own ports for judicial examination all vessels which it suspects for substantial reasons to be engaged in unneutral or contraband service, and to condemn them if the suspicion is sustained. But such rights, long clearly defined both in doctrine and practice, have hitherto been held to be the only permissible exceptions to the principle of universal equality of sovereignty on the high seas as between belligerents and nations not engaged in war.

It is confidently assumed that His Majesty's Government will not deny that it is a rule sanctioned by general practice that, even though a blockade should exist and the doctrine of contraband as to un-

blockaded territory be rigidly enforced, innocent shipments may be freely transported to and from the United States through neutral countries to belligerent territory without being subject to the penalties of contraband traffic or breach of blockade, much less to detention, requisition, or confiscation.

Moreover, the rules of the declaration of Paris of 1856—among them that free ships make free goods—will hardly at this day be disputed by the signatories of that solemn agreement.

His Majesty's Government, like the Government of the United States, have often and explicitly held that these rights represent the best usage of warfare in the dealings of belligerents with neutrals at sea. In this connection I desire to direct attention to the opinion of the Chief Justice of the United States in the case of the *Peterhof*, which arose out of the Civil War, and to the fact that that opinion was unanimously sustained in the award of the arbitration commission of 1871, to which the case was presented at the request of Great Britain. From that time to the declaration of London of 1909, adopted with modifications by the order in council of the 23d of October last, these rights have not been seriously questioned by the British Government. And no claim on the part of Great Britain of any justification for interfering with these clear rights of the United States and its citizens as neutrals could be admitted. To admit it would be to assume an attitude of unneutrality toward the present enemies of Great Britain which would be obviously inconsistent with the solemn obligations of this Government in the present circumstances; and for Great Britain to make such a claim would be for her to abandon and set at naught the principles for which she has consistently and earnestly contended in other times and circumstances.

The note of His Majesty's principal secretary of state for foreign affairs which accompanies the order in council, and which bears the same date, notifies the Government of the United States of the establishment of a blockade which is, if defined by the terms of the order in council, to include all the coasts and ports of Germany and every port of possible access to enemy territory. But the novel and quite unprecedented feature of that blockade, if we are to assume it to be properly so defined, is that it embraces many neutral posts and coasts, bars access to them, and subjects all neutral ships seeking to approach them to the same suspicion that would attach to them were they bound for the ports of the enemies of Great Britain, and to unusual risks and penalties.

It is manifest that such limitations, risks, and liabilities placed upon the ships of a neutral power on the high seas, beyond the right of visit and search and the right to prevent the shipment of contraband already referred to, are a distinct invasion of the sovereign rights of the nation whose ships, trade, or commerce is interfered with.

The Government of the United States is, of course, not oblivious to the great changes which have occurred in the conditions and means of naval warfare since the rules hitherto governing legal blockade were formulated. It might be ready to admit that the old form of "close" blockade, with its cordon of ships in the immediate offing of the blockaded ports, is no longer practicable in face of an enemy

possessing the means and opportunity to make an effective defense by the use of submarines, mines, and aircraft; but it can hardly be maintained that, whatever form of effective blockade may be made use of, it is impossible to conform at least to the spirit and principles of the established rules of war. If the necessities of the case should seem to render it imperative that the cordon of blockading vessels be extended across the approaches to any neighboring neutral port or country, it would seem clear that it would still be easily practicable to comply with the well-recognized and reasonable prohibition of international law against the blockading of neutral ports by according free admission and exit to all lawful traffic with neutral ports through the blockading cordon. This traffic would, of course, include all outward-bound traffic from the neutral country and all inward-bound traffic to the neutral country, except contraband in transit to the enemy. Such procedure need not conflict in any respect with the rights of the belligerent maintaining the blockade, since the right would remain with the blockading vessels to visit and search all ships either entering or leaving the neutral territory which they were in fact but not of right investing.

The Government of the United States notes that in the order in council His Majesty's Government gives as their reason for entering upon a course of action which they are aware is without precedent in modern warfare the necessity they conceive themselves to have been placed under to retaliate upon their enemies for measures of a similar nature which the latter have announced it their intention to adopt and which they have to some extent adopted; but the Government of the United States, recalling the principles upon which His Majesty's Government have hitherto been scrupulous to act, interprets this as merely a reason for certain extraordinary activities on the part of His Majesty's naval forces and not as an excuse for or prelude to any unlawful action. If the course pursued by the present enemies of Great Britain should prove to be in fact tainted by illegality and disregard of the principles of war sanctioned by enlightened nations, it can not be supposed, and this Government does not for a moment suppose, that His Majesty's Government would wish the same taint to attach to their own actions or would cite such illegal acts as in any sense or degree a justification for similar practices on their part, in so far as they affect neutral rights.

It is thus that the Government of the United States interprets the language of the note of His Majesty's principal secretary of state for foreign affairs which accompanies the copy of the order in council which was handed to the ambassador of the United States near the Government in London and by him transmitted to Washington.

This Government notes with gratification that "wide discretion is afforded to the prize court in dealing with the trade of neutrals in such manner as may in the circumstances be deemed just, and that full provision is made to facilitate claims by persons interested in any goods placed in the custody of the marshal of the prize court under the order"; that "the effect of the order in council is to confer certain powers upon the executive officers of His Majesty's Government"; and that "the extent to which these powers will be actually exercised and the degree of severity with which the measures of

blockade authorized will be put into operation are matters which will depend on the administrative orders issued by the Government and the decisions of the authorities especially charged with the duty of dealing with individual ships and cargoes according to the merits of each case." This Government further notes with equal satisfaction that the declaration of the British Government that "the instructions to be issued by His Majesty's Government to the fleet and to the customs officials and executive committees concerned will impress upon them the duty of acting with the usual dispatch consistent with the object in view, and of showing in every case such consideration for neutrals as may be compatible with that object, which is, succinctly stated, to establish a blockade to prevent vessels from carrying goods for or coming from Germany."

In view of these assurances formally given to this Government it is confidently expected that the extensive powers conferred by the order in council on the executive officers of the Crown will be restricted by "orders issued by the Government" directing the exercise of their discretionary powers in such a manner as to modify in practical application those provisions of the order in council which, if strictly enforced, would violate neutral rights and interrupt legitimate trade. Relying on the faithful performance of these voluntary assurances by His Majesty's Government, the United States takes it for granted that the approach of American merchantmen to neutral ports situated upon the long line of coast affected by the order in council will not be interfered with when it is known that they do not carry goods which are contraband of war or goods destined to or proceeding from ports within the belligerent territory affected.

The Government of the United States assumes with the greater confidence that His Majesty's Government will thus adjust their practice to the recognized rules of international law, because it is manifest that the British Government have adopted an extraordinary method of "stopping cargoes destined for or coming from the enemy's territory," which, owing to the existence of unusual conditions in modern warfare at sea, it will be difficult to restrict to the limits which have been heretofore required by the law of nations. Though the area of operations is confined to "European waters, including the Mediterranean," so great an area of the high seas is covered and the cordon of ships is so distant from the territory affected that neutral vessels must necessarily pass through the blockading force in order to reach important neutral ports which Great Britain, as a belligerent, has not the legal right to blockade, and which therefore it is presumed she has no intention of claiming to blockade. The Scandinavian and Danish ports, for example, are open to American trade. They are also free, so far as the actual enforcement of the order in council is concerned, to carry on trade with German Baltic ports, although it is an essential element of blockade that it bears with equal severity upon all neutrals.

This Government, therefore, infers that the commanders of His Majesty's ships of war engaged in maintaining the so-called blockade will be instructed to avoid an enforcement of the proposed measures of nonintercourse in such a way as to impose restrictions upon neutral trade more burdensome than those which have been regarded

as inevitable when the ports of a belligerent are actually blockaded by the ships of its enemy.

The possibility of serious interruption of American trade under the order in council are so many and the methods proposed are so unusual, and seem liable to constitute so great an impediment and embarrassment to neutral commerce, that the Government of the United States, if the order in council is strictly enforced, apprehends many interferences with its legitimate trade which will impose upon His Majesty's Government heavy responsibilities for acts of the British authorities clearly subversive of the rights of neutral nations on the high seas. It is therefore expected that His Majesty's Government, having considered these possibilities, will take the steps necessary to avoid them, and in the event that they should unhappily occur will be prepared to make full reparation for every act which under the rules of international law constitutes a violation of neutral rights.

As stated in its communication of October 22, 1914, "this Government will insist that the rights and duties of the United States and its citizens in the present war be defined by the existing rules of international law and the treaties of the United States, irrespective of the provisions of the declaration of London, and that this Government reserves to itself the right to enter a protest or demand in each case in which those rights and duties so defined are violated or their free exercise interfered with by the authorities of the British Government."

In conclusion, you will reiterate to His Majesty's Government that this statement of the views of the Government of the United States is made in the most friendly spirit and in accordance with the uniform candor which has characterized the relations of the two Governments in the past, and which has been in large measure the foundation of the peace and amity existing between the two nations without interruption for a century.

BRYAN.

Four months later, July 23, Britain made reply to our note on neutral rights:

[The New York Times, July 24, 1915.]

British note, July 23, 1915, replying to the American note of March 30, in regard to British violation of neutral rights.

The secretary of state for foreign affairs to the American ambassador:

1. On the 2d of April your excellency handed to me a copy of a communication containing the criticisms of the United States Government on the measures we have been constrained to take on account of the menace to peaceful commerce resulting from the German submarine policy. This communication has received the most careful consideration of His Majesty's Government.

2. I fully appreciate the friendly spirit and the candor which are shown in the communication, and, replying in the same spirit, I trust that I may be able to convince your excellency, and also the administration at Washington, that the measures we have announced are not only reasonable and necessary in themselves but constitute no more than an adaptation of the old principles of blockade to the peculiar circumstances with which we are confronted.

3. I need scarcely dwell on the obligation incumbent upon the allies to take every step in their power to overcome their common enemy, in

view of the shocking violation of the recognized rules and principles of civilized warfare of which he has been guilty during the present struggle. Your excellency's attention has already been drawn to some of these proceedings in the memorandum which I handed to you on the 19th February. Since that time Lord Bryce's report, based on evidence carefully sifted by legal experts, describing the atrocities committed in Belgium; the poisoning of wells in German Southwest Africa; the use of poisonous gases against the troops in Flanders; and, finally, the sinking of the *Lusitania* without any opportunity to passengers and noncombatants to save their lives, have shown how indispensable it is that we should leave unused no justifiable method of defending ourselves.

4. Your excellency will remember that in my notes of the 13th and 15th March I explained that the allied Governments intended to meet the German attempt to stop all supplies of every kind from leaving or entering British or French ports by themselves intercepting goods going to or from Germany. I read the communication from your excellency's Government, not as questioning the necessity for our taking all the steps open to us to cripple the enemy's trade, but as directed solely to the question of the legitimacy of the particular measures adopted

5. In the various notes which I have received from your excellency the right of a belligerent to establish a blockade of the enemy ports is admitted, a right which has obviously no value save in so far as it gives power to a belligerent to cut off the sea-borne exports and imports of his enemy. The contention which I understand the United States Government now puts forward is that if a belligerent is so circumstanced that his commerce can pass through adjacent neutral ports as easily as through ports in his own territory, his opponent has no right to interfere, and must restrict his measures of blockade in such a manner as to leave such avenues of commerce still open to his adversary.

This is a contention which His Majesty's Government feels unable to accept and which seems to them unsustainable, either in point of law or upon principles of international equity. They are unable to admit that a belligerent violates any fundamental principle of international law by applying a blockade in such a way as to cut off the enemy's commerce with foreign countries through neutral ports if the circumstances render such an application of the principles of blockade the only means of making it effective. The Government of the United States, indeed, intimates its readiness to take into account "the great changes which have occurred in the conditions and means of naval warfare since the rules hitherto governing legal blockade were formulated," and recognizes that "the form of close blockade, with its cordon of ships in the immediate offing of the blockaded ports, is no longer practicable in the face of an enemy possessing the means and opportunity to make an effective defense by the use of submarines, mines, and aircraft."

6. The only question, then, which can arise in regard to the measures resorted to for the purpose of carrying out a blockade upon these extended lines is whether, to use your excellency's words, they "conform to the spirit and principles of the essence of the rules of war"; and we shall be content to apply this test to the action

which we have taken, in so far as it has necessitated interference with neutral commerce.

7. It may be noted in this connection that at the time of the Civil War the United States found themselves under the necessity of declaring a blockade of some 3,000 miles of coast line, a military operation for which the number of vessels available was at first very small. It was vital to the cause of the United States in that great struggle that they should be able to cut off the trade of the Southern States. The Confederate armies were dependent on supplies from overseas, and those supplies could not be obtained without exporting the cotton wherewith to pay for them.

To cut off this trade the United States could only rely upon a blockade. The difficulties confronting the Federal Government were in part due to the fact that neighboring neutral territory afforded convenient centers from which contraband could be introduced into the territory of their enemies and from which blockade running could be facilitated. Your excellency will no doubt remember how, in order to meet this new difficulty, the old principles relating to contraband and blockade were developed, and the doctrine of continuous voyage was applied and enforced, under which goods destined for the enemy territory were intercepted before they reached the neutral ports from which they were to be reexported.

8. The difficulties which imposed upon the United States the necessity of reshaping some of the old rules are somewhat akin to those with which the allies are now faced in dealing with the trade of their enemy. Adjacent to Germany are various neutral countries which afford her convenient opportunities for carrying on her trade with foreign countries. Her own territories are covered with a network of railways and waterways, which enables her commerce to pass as conveniently through ports in such neutral countries as through her own. A blockade limited to enemy ports would leave open routes by which every kind of German commerce could pass almost as easily as through the ports in her own territory. Rotterdam is, indeed, the nearest outlet for some of the industrial districts of Germany.

9. As a counterpoise to the freedom with which one belligerent may send his commerce across a neutral country without compromising its neutrality, the other belligerent may fairly claim to intercept such commerce before it has reached, or after it has left, the neutral State, provided, of course, that he can establish that the commerce with which he interferes is the commerce of his enemy and not commerce which is bona fide destined for or proceeding from the neutral State. It seems, accordingly, that if it be recognized that a blockade is in certain cases the appropriate method of intercepting the trade of an enemy country, and if the blockade can only become effective by extending it to enemy commerce passing through neutral ports, such an extension is defensible and in accordance with principles which have met with general acceptance.

10. To the contention that such action is not directly supported by written authority, it may be replied that it is the business of writers on international law to formulate existing rules rather than to offer suggestions for their adaptation to altered circumstances, and your excellency will remember the unmeasured terms in which a group of prominent international lawyers of all nations condemned the doc-

trine which had been laid down by the Supreme Court of the United States in the case of the *Springbok*, a doctrine upheld by the Claims Commission at Washington in 1873. But the United States and the British Government took a broader view and looked below the surface at the underlying purpose, and the Government of this country, whose nationals were the sufferers by the extension and development of the old methods of blockade made by the United States during the Civil War, abstained from all protests against the decisions by which the ships and their cargoes were condemned.

11. What is really important in the general interest is that adaptations of the old rules should not be made unless they are consistent with the general principles upon which an admitted belligerent right is based. It is also essential that all unnecessary injury to neutrals should be avoided. With these conditions, it may be safely affirmed that the steps we are taking to intercept commodities on their way to and from Germany fully comply. We are interfering with no goods with which we should not be entitled to interfere by blockade if the geographical position and the conditions of Germany at present were such that her commerce passed through her own ports. We are taking the utmost possible care not to interfere with commerce genuinely destined for or proceeding from neutral countries. Furthermore, we have tempered the severity with which our measures might press upon neutrals by not applying the rule, which was invariable in the old form of blockade, that ships and goods on their way to or from the blockaded area are liable to condemnation.

12. The communication made by the United States Embassy on April 2 describes as a novel and quite unprecedented feature of the blockade that it embraces many neutral ports and coasts and has the effect of barring access to them. It does not appear that our measures can be properly so described. If we are successful in the efforts we are making to distinguish between the commerce of neutral and enemy countries, there will be no substantial interference with the trade of neutral ports, except in so far as they constitute ports of access to and exit from the enemy territory. There are at this moment many neutral ports which it would be mere affectation to regard as offering facilities only for the commerce of the neutral country in which they are situated, and the only commerce with which we propose to interfere is that of the enemy who seeks to make use of such ports for the purposes of transit to or from its own country.

13. One of the earlier passages in your excellency's memorandum was to the effect that the sovereignty of neutral nations in time of war suffers no diminution, except in so far as the practice and consent of civilized nations have limited it "by the recognition of certain now clearly determined rights" which it is considered may be exercised by nations at war, and these it defines as the right of capture and condemnation for unneutral service, for the carriage of contraband, and for breach of blockade. I may, however, be permitted to point out that the practice of nations on each of the subjects mentioned has not at any time been uniform or clearly determined, nor has the practice of any maritime nation always been consistent.

14. There are various particulars in which the exact method of carrying a blockade into effect has from time to time varied. The need of a public notification, the requisite standard of effectiveness, the locality of the blockading squadrons, the right of the individual

ship to a preliminary warning that the blockade is in force, and the penalty to be inflicted on a captured blockade runner, are all subjects on which different views have prevailed in different countries and in which the practice of particular countries has been altered from time to time. The one principle which is fundamental and has obtained universal recognition is that by means of blockade a belligerent is entitled to cut off, by effective means, the sea-borne commerce of his enemy.

15. It is the same with contraband. The underlying principle is well established, but as to the details there has been a wide variety of views. As for unneutral service—the very term is of such recent introduction that many writers of repute on international law do not mention it—it is possible, in the view of His Majesty's Government in these circumstances, to maintain that the right of a belligerent to intercept the commerce of his enemy is limited in the way suggested in your excellency's communication.

16. There are certain subsidiary matters dealt with in your excellency's communication to which I think it well to refer. Among these may be mentioned your citation of the declaration of Paris, due, no doubt, to the words which occur in the memorandum sent by me to your excellency on the 1st of March, wherein it was stated that the allied Governments would hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership, or origin, and to our announcement that vessels might be required to discharge goods of enemy ownership as well as those of enemy origin or destination.

17. It is not necessary to discuss the extent to which the second rule of the declaration of Paris is affected by these measures or whether it could be held to apply at all as between Great Britain and the United States. In actual practice, however, we are not detaining goods on the sole ground that they are the property of an enemy. The purpose of the measures we are taking is to intercept commerce on its way from and to the enemy country. There are many cases in which proof that the goods were enemy property would afford strong evidence that they were of enemy origin or enemy destination, and it is only in such cases that we are detaining them. Where proof of enemy ownership would afford no evidence of such origin or destination we are not in practice detaining the goods.

18. His Majesty's Government have been gratified to observe that the measures which they are enforcing have had no detrimental effect on the commerce of the United States. Figures of recent months show that the increased opportunities afforded by the war for American commerce have more than compensated for the loss of the German and Austrian markets.

19. I trust that in the light of the above explanations it will be realized that the measures to which we have resorted have been not only justified by the exigencies of the case, but can be defended as in accordance with general principles which have commended themselves to the Governments of both countries. I am glad to be able to assure your excellency that we shall continue to apply these measures with every desire to occasion the least possible amount of inconvenience to persons engaged in legitimate commerce.

I have, etc.,

E. GREY.

(The New York Times, Aug. 4, 1915.)

On May 20, 1915, the British submitted a memorandum touching upon interference with neutral rights:

British memorandum, May 20, 1915, in reference to the detention of American ships and cargoes. (The memorandum has a paragraph attached comparing the exports of the United States to belligerent and neutral countries in January and February, 1914, with those in the same months of 1915. An additional table shows an increase in the American exportation of bacon and lard to neutral countries in March, 1915.)

First. There are at the present moment three American ships detained in this country. Two of them are cotton ships, which are dealt with below. The third is the steamer *Joseph W. Fordney.* This vessel, with a cargo of foodstuffs consigned to E. Klingener at Malmo (Sweden), was brought into Kirkwall on April 8. She had been sighted by His Majesty's ships about 10 miles from the Norwegian coast, and had thereupon endeavored, with the evident desire to evade search, to escape rapidly into Norwegian territorial waters, but without success.

On the vessel's arrival in Kirkwall inquiries were at once addressed to His Majesty's minister at Stockholm, with regard to the consignee of the cargo, and a reply was received to the effect that no person of that name could be identified at Malmo, though there was a person of that name who resided at Gothenburg, and was manager of the Gothenburg branch of Hugo Hartvig, and who had stated that the consignments addressed to him on board the *Joseph W. Fordney* were intended for storage in Malmo.

Second. The suspicious conduct of the vessel in endeavoring to elude His Majesty's patrols and the known connections of the consignee of her cargo have tended to confirm other evidence which has come to the knowledge of His Majesty's Government that the foodstuffs were in reality destined for Germany. It was accordingly decided that the cargo must be placed in the prize court, and the vessel is at present discharging at Portishead, England, on the completion of which operation she will be released.

His Majesty's Government feel satisfied that in the circumstances of this case undue interference with American interests can not with reason be imputed to them.

Third. The number of neutral vessels carrying American cargoes and at present held up is 36. Of these, 23 carry cargoes of American cotton. The United States Government are aware that since the enforcement of the blockade measures announced in the supplement to the London Gazette of the 12th of March last His Majesty's Government have acted as regards shipments of American cotton in accordance with the provisions of an arrangement arrived at in collaboration with representatives of the American cotton interests. The terms of the arrangement are as follows:

A. All cotton for which contracts, sale, and freight engagements already have been made before March 2 is to be allowed free transit or bought at the contract price if stopped, provided the ship sails not later than the 31st of March.

B. Similar treatment is to be accorded all cotton insured before the 2d of March, provided it is put aboard not later than the 16th of March.

C. All shipments of cotton claiming the above protection are to be declared before sailing and documents produced and certificates obtained from consular officers or other authorities fixed by the Government.

Fourth. In accepting this scheme, which, it may be noted, applies to shipments of cotton for a neutral destination only, the principal representatives of the American cotton interests described it to His Majesty's ambassador at Washington as conceding all that the American interests could properly ask. It was never suggested that vessels or cargoes with an enemy destination should be allowed to proceed. His Majesty's Government were, moreover, given to understand that the provisions of the arrangement were acceptable to the United States Government.

Fifth. It is intended shortly to furnish a statement showing precisely what cargoes or portions of cargoes His Majesty's Government have dealt with under the above arrangement, and as regards those which they have decided to purchase at the contract price under the terms of paragraph A of the arrangement direct discussions have already been opened with the special representatives of the American parties interested in London.

Sixth. A considerable portion of the cotton has already been sold, and arrangements are being made for handing over the proceeds to the parties entitled to receive the total value as a first installment of the completed transaction. It is obvious that all these arrangements require some time for adjustment. Meanwhile it is not believed that the original owners can, as appears to be apprehended, be suffering acutely by the delay of full payment. It is to be presumed that in accordance with the customs of trade the owners drew bills to the value of their goods before or at the time of shipment; and, if such bills have been negotiated in the usual way, it is difficult to understand why the drawers should be put to inconvenience on this account, at least before the date when the bills fall due.

Seventh. On an impartial review of the facts it will, His Majesty's Government feel sure, be admitted that no arbitrary interference with American interests has, in regard to these cargoes, occurred, seeing that His Majesty's Government has acted throughout in conformity with the terms of an arrangement agreeable to the interests concerned and that United States citizens will suffer no pecuniary loss.

Eighth. As regards other American cargoes or portions of cargoes which have been placed in the prize court. His Majesty's Government resort to this measure in cases where either the goods concerned are contraband or there is evidence that although ostensibly consigned to a person in neutral countries they are in reality destined to the enemy in contravention of the rules of blockade. The right to submit such cases to the public investigation of a judicial tribunal is one which His Majesty's Government can not forego, and they feel convinced that the enlightened opinion in the United States can not adversely criticize their course of action in this respect.

Ninth. It is true that a number of these cases have been pending in the prize court for some time. This is notably the case in regard to certain vessels carrying large shipments of meat and lard osten-

sibly consigned to Scandinavian ports. The United States Government are, however, no doubt aware that much of the delay involved in these instances is due to the fact that the negotiations have been carried on for many weeks with a representative of the principal American meat packers, for an arrangement designated to limit importation into neutral countries adjacent to Germany, to quantities actually required in those countries for bona fide home consumption. The American meat packers have demanded as a part of the settlement to be agreed upon that His Majesty's Government should buy the cargoes of several ships now held up in the prize court. Hence the delay in bringing these cases to adjudication.

The negotiations for an amicable settlement have, unfortunately, come to a standstill owing to the exorbitant terms insisted upon by the representative of the American packers. This stage having now been reached, His Majesty's Government have decided to go on with the prize-court proceedings in these cases, and it is not expected that a decision will be much longer delayed.

Tenth. It may finally be pointed out that repeated complaint, as to injury suffered generally by American trade in consequence of interference due to British naval measures, derives little substance from the published American trade returns. A table of figures taken from these returns and showing the amount of recent American trade with Germany and with neutral countries supplying Germany is annexed hereto. It certainly tends to disprove any contention that American trade with neutral countries has recently suffered. It will be seen that whereas American exports to Germany and Austria in February, 1915, fell by $21,500,000, as compared with the same month in 1914, American exports to Scandinavia, Holland, and Italy rose by the enormous figure of $61,100,000.

Eleventh. Similar figures for the month of March have not yet reached His Majesty's Government, but they have received statistics for that month of the value of exports and imports through New York, as issued by the collector of the port, and while pointing out a large increase in the value of exports in 1915, compared with those of 1914, as shown in the tables annexed, they desire especially to call attention to a separate statement indicating the increase in the amount of the export to Scandinavian and Dutch ports of two commodities only—bacon and lard. These figures show that as against 1,253 boxes of bacon and 9,816 tierces of lard exported to the ports noted in the above countries in March, 1914, there were exported in March, 1915, 32,222 boxes of bacon and 95,676 tierces of lard.

Twelfth. His Majesty's Government consider that the abnormal increase in supplies imported by neutral countries, as shown in these statistics, alone justifies their assumption as to the ultimate destination of many items in cargoes consigned to one or the other of the countries in question in the vessels which they have detained, but they would call attention to the fact that it is only when they have believed themselves to be in possession of conclusive evidence of the enemy destination of a cargo that they have seized such a cargo, and that American interests, as for instance in the case of cotton, have received especially sympathetic consideration. (The New York Times, May 21, 1915.)

The Secretary of State, on May 21, made the following statement touching an error in the foregoing:

The foreign-trade advisers' attention has been called to the statement of the foreign office of Great Britain, published in this morning's papers, an extract from which follows:

"Fourth. In accepting this scheme, which, it may be noted, applies to shipments of cotton for a neutral destination only, the principal representatives of the American interests described it to His Majesty's ambassador at Washington as conceding all that the American interests could properly ask. It was never suggested that vessels or cargoes with an enemy destination should be allowed to proceed. His Majesty's Government were, moreover, given to understand that the provisions of the arrangements were acceptable to the United States Government."

The plan referred to is the one which was entered into between the cotton shippers of this country and the British Embassy, a portion of which is quoted in the Statement of the British foreign office.

Without discussing at this time the statement that "it was never suggested that vessels or cargoes with an enemy destination should be allowed to proceed," the foreign-trade advisers, who informally and unofficially represented the cotton shippers in the negotiations which led to the so-called cotton arrangement, state that it was distinctly understood between Sir Arthur Cecil Spring-Rice, the British ambassador, and Robert F. Rose, the foreign-trade adviser conducting this discussion on behalf of the American cotton exporters, that nothing done by the foreign-trade advisers should be regarded as official, and that everything done was to be considered as informal and unofficial, and in no way binding the United States Government to any arrangement reached, or be construed as a recognition of the order in council to be issued or the declaration of March 1 which has been issued. This statement was made to the British ambassador on March 3 when the first conference in the matter was held, was repeated at each subsequent conference, and each time the absolute assurance from the British ambassador was received that, in acting for the cotton shippers in any way, the foreign-trade advisers were to be regarded as not representing the United States Government in any manner. (The New York Times, May 22, 1915.)

Statement of the British Embassy, May 21, 1915, correcting the error in the foregoing:

The terms of the arrangement quoted in the British statement as telegraphed were arrived at in London between a private representative of the American cotton interests in London and British officials in London. The reference to the British ambassador in paragraph 4 is, therefore, an error.

The arrangement in question formed the subject of conversations between the ambassador and representatives of the cotton interests in this country. There never was any question of a formal and official understanding between the United States Government and the British Embassy. (The New York Times, May 22, 1915.)

A further statement of England upon the treatment of neutral rights on the sea, June 17, 1915:

British memorandum, June 17, 1915, in reference to the treatment of American commerce. (According to the letter of the American

ambassador, transmitting the memorandum, "it is not an answer to the principles set forth in the note * * * of March 30, but merely an explanation of concrete cases and the regulations under which they are dealt with."

(The secretary of state for foreign affairs ad interim to the American ambassador.)

1. His Majesty's Government have on various occasions, and notably in the communication which was addressed to the United States ambassador on March 15 last, given assurances to the United States Government that they would make it their first aim to minimize the inconvenience which must inevitably be caused to neutral commerce from the existence of a state of war at sea, and in particular from the measures taken by the allied Governments for the restriction of the enemies' over-sea trade. In view of the representation and complaints made to this department by the ambassador from time to time as to the peculiar hardships alleged to have been wrongly inflicted on American trade and shipping by the operation of those measures, His Majesty's Government desire to offer the following observations respecting the manner in which they have consistently endeavored to give practical effect to those assurances:

2. It will be recalled that at the moment when His Majesty's Government announced their measures against enemy commerce, they declared their intention to refrain altogether from the exercise of the right to confiscate ships or cargoes which belligerents had always previously claimed in respect to breaches of blockade; that, under Article 1 of the enactment of March 11 it was expressly provided that any person claiming to be interested in goods placed in the prize court in pursuance of the provision of that enactment, might forthwith issue a writ against the proper officers of the Crown, the object being to confer upon claimants the right to institute proceedings without waiting for the writ of the procurator general, and thus to remove all possible cause of legitimate grievance on account of delay; and that, finally, a pacific assurance was given to the United States Government that the instructions to be issued by His Majesty's Government to the fleet and to the customs officials and executive officials concerned, would impress upon them the duty of acting with the utmost dispatch consistent with the object in view and of showing in every case such consideration for neutrals as might be compatible with that object, namely, to prevent vessels carrying goods for or coming from the enemy's territory.

3. The above measures were all designed to alleviate the burdens imposed upon neutral sea-borne commerce in general. Various special concessions, over and above those enumerated, have, moreover, been made in favor of United States citizens.

4. Thus His Majesty's Government have acted as regards shipments of American cotton in accordance with the provisions of an arrangement were, as the United States ambassador is aware, as of the American cotton interests. In accepting this scheme the principal representative of those interests described it as conceding all that American interests could properly ask. The provisions of the arrangement were, as the United States Ambassador is aware, as follows:

"1. All cotton for which contracts of sale and freight engagements have already been made before the 2d of March is to be allowed free

(or bought at contract price if stopped), provided the ship sails not later than the 31st of March.

"2. Similar treatment is to be accorded to all cotton insured before the 2d of March, provided it is put on board not later than the 16th of March.

"3. All shipments of cotton claiming the above protection are to be declared before sailing and the documents produced to and certificates obtained from consular officers or other authority fixed by the Government."

5. Considerable shipments of cotton have already been dealt with under this arrangement, and in certain cases the dates specified have been extended in favor of American shippers. The board of trade have already paid a sum exceeding £450,000 to various American claimants, and all claims are being and will continue to be paid as rapidly as they are presented and the proofs of title can be checked. If in some cases progress has been delayed, this has been due to the fact, which has seriously embarrassed His Majesty's Government, that a number of consignments, for which the American shippers had specifically invoked the protection of the arrangement, are now claimed by Swedish and Dutch firms, whose title of ownership, notwithstanding the action of the American shippers, appears in some cases to be valid, and in others has led to the issue of writs in the prize court.

6. It has been explicitly acknowledged by the special representatives of the American claimants, who have been in constant and direct communication with the board of trade, that all the claims so far submitted under the cotton arrangement have been settled with the utmost promptitude, so soon as the production of the necessary documents by the claimants allowed of this being done. There is at the present moment no claim before His Majesty's Government that has not been paid, and the sums so paid over are already considerably in excess of the amounts realized by the sale of the goods.

7. As regards the more general allegation of delay in dealing with cases of detained cargoes, the following facts and figures may be quoted:

The total number of vessels which, having cleared from United States ports since the initiation of the retaliatory measures against German trade, are still detained in United Kingdom ports is 27; of this number 8 are discharging cotton which His Majesty's Government has agreed to purchase under the above arrangement. Of the remaining 19 vessels, 7 are free to depart as soon as the items of their cargo placed in the prize court have been discharged. The other 12, of which 3 only are American ships, are detained pending inquiries as to suspicious consignments, and particulars as to the dates and approximate causes of detention are furnished in the accompanying list. It will be observed that 8 have been detained for a period of less than a week and 3 for a period of less than a fortnight, while the detention of 1 is due to the difficulties in regard to transit across Sweden and Russia.

8. His Majesty's Government remain convinced that, on an impartial review of the facts, it will be admitted that no arbitrary interference with American interests has, in regard to cotton cargoes, occurred; while, if due regard be paid to the enormous volume of American and neutral shipping which is continually engaged in the

trans-Atlantic trade, the figures and dates quoted in the preceding paragraph will emphasize the restricted nature of any interference which has taken place and the close attention with which the officials concerned have adhered to their instructions to act in all cases with expedition and with every possible consideration for neutrals.

9. Since His Majesty's Government have been compelled to adopt their present measures against German commerce, they have given special consideration to the question of avoiding as far as possible unnecessary damage to the interests of neutrals in regard to the export of goods of German origin, and here, again, liberal concessions have been made to United States citizens. Under the rules enacted on the 11th of March provision is made for the investigation of all neutral claims respecting such goods in the prize court, and it is obvious that these claims can receive due and equitable consideration most properly before a judicial tribunal. Nevertheless, in deference to the express desire of the United States Government, arrangements were made toward the end of March whereby United States citizens, who might desire to import goods of German origin via a neutral port, were enabled to produce proof of payment to His Majesty's Embassy at Washington. If such proof were deemed satisfactory, His Majesty's Government gave an undertaking that the goods concerned should not be interfered with in transit, and the American importer was freed from the necessity of submitting his claim to the prize court in London for adjudication. A few days later His Majesty's Government further agreed to recognize the neutral ownership of goods of enemy origin even if not paid for before the 1st of March, provided they were the subject of a f. o. b. contract of earlier date, and had arrived at a neutral port before the 15th of March.

10. Special treatment has also been accorded to cargoes of particular produce destined for the United States and stated to be indispensable for the industries of the country, and in notes addressed to the United States ambassador in April and May, undertakings were given not to interfere during transit with certain cargoes of dyestuffs, potash, and German beet seed.

11. When it became apparent that large quantities of enemy goods were still passing out through neutral countries His Majesty's Government felt it necessary to fix a definite date after which such shipments must cease to enjoy the special immunity, theretofore granted, from liability to being placed in the prize court. It had been observed that a large increase had taken place in the number of vessels sailing from neutral countries to America, and one of the principal lines of steamships advertised a daily in place of a weekly service. In such circumstances it appeared scarcely possible that goods of enemy origin bought and paid for prior to the 1st March should not have already been shipped to their destination. First June was accordingly fixed as the date after which the privilege allowed in the case of such shipments should cease; but once more a special favor was granted by extending the date in exceptional cases to the 15th June.

12. Importers in the United States having now had three months in which to clear off their purchases in enemy territory, His Majesty's Government trust that, in presence of the circumstances enumerated, the United States Government will acknowledge the great consideration which has been shown to American interests.

13. Nevertheless a fresh appeal has now been made to His Majesty's Government that shipments of American-owned goods of enemy's origin, if paid for before the beginning of March, should be allowed to be shipped without molestation after the 15th June. The appeal is based principally upon the contentions, (a) that insufficient time has already elapsed; (b) that no mention of a time limit is made in the enactment of the 11th March; (3) that the proofs of ownership required by His Majesty's Government are of an exacting nature and involve much time for preparation.

14. The first contention (a) has already been dealt with. As regards (b) and (c) it is true that the enactment of the 11th March contains no mention of a time limit. But it seems to be overlooked that the time limit has been fixed only for the special immunity granted as an exception from that enactment. It was as a friendly concession to American interests that His Majesty's Government agreed to an investigation of claims outside the prize court. As for the exacting nature of the proofs required by His Majesty's Government, experience has shown that such proofs were necessary.

15. In deference, however, to the renewed representations of the United States ambassador, His Majesty's Government have given further directions that in all such cases, as may have been specially submitted through the British Embassy at Washington or to His Majesty's Government direct on or before June 15 and passed, the goods shall be allowed to proceed without interference, if shipped from a neutral port on the conditions already laid down, notwithstanding the fact that shipment may not have been made before June 15.

16. His Majesty's Government will also be prepared hereafter to give special consideration to cases presented to them and involving particular hardships, if the goods concerned are required for neutral Governments or municipalities, or in respect of works or public utility, and where payment can be shown to have been made before March 1, 1915.

17. With the above exceptions, His Majesty's Government regret they can not continue to deal through the diplomatic channel with individual cases, but they would again point out that special provision is made for the consideration of such cases in the prize court.

18. Complaints have not infrequently been made that undue delay occurs in dealing with American cargoes in the prize court. An interesting comment on this subject was made by the president of the prize court in the case of the cargo ex-steamship *Ogeechee* on the 14th instant. His lordship, according to the transcript from the official shorthand writer's notes, made the following observations:

"It is a very extraordinary thing that, when the Crown are ready to go on the claimants come here and say, 'We can not proceed for six weeks.' Some day toward the end of the last term I had a row of eminent counsel in front pressing me to fix a case at once. I fixed it very nearly at once—that is to say, the second day of the following term. They all came and said, 'We want an adjournment for six weeks.'"

19. The solicitor general hereupon remarked: "If I might say so on that, one of the reasons I applied to-day on behalf of the Crown that the matter should be dealt with as soon as possible is for that very reason. There has been such a strong desire on the part of

America and American citizens that there should be no delay, but one finds, in fact, the delay comes from there."

20. The President then stated: "I know that. I do not know what the explanation is, but I am anxious that there should be no delay."

21. It is true that a number of cases, principally relating to cargoes which, though ostensibly consigned to a person in a neutral country, are in reality believed to be destined for the enemy, have been pending in the prize court for some time. The United States Government is aware that most of these cargoes consist of meat and lard, and that much of the delay in bringing these cargoes to adjudication was due to the fact that negotiations were being carried on for many weeks with a representative of the principal American meat packers for an amicable settlement out of court. When at length, owing to the failure of the negotiations, His Majesty's Government decided that they would continue the prize-court proceedings and had at the request of the claimants fixed the earliest possible date for the hearing, counsel for the latter asked for an adjournment in their interests, despite the fact that the Crown was, by his own admission, ready to proceed.

22. His Majesty's Government are earnestly desirous of removing all causes of avoidable delay in dealing with American cargoes and vessels which may be detained, and any specific inquiries or representations which may be made by the United States Government in regard to particular cases will always receive the most careful consideration, and all information which can be afforded without prejudice to prize-court proceedings will be readily communicated, but they can scarcely admit that on the basis of actual facts any substantial grievance on the part of American citizens is justified or can be sustained, and they therefore confidently appeal to the opinion of the United States Government as enlightened by this memorandum. (The New York Times, June 25, 1915.)

On July 14, 1915, our Government addressed a note declaring its intention to insist upon respect for international law in time of war:

Summary of American "caveat," July 14, 1915, against British prize-court procedure.

(The Secretary of State to the American ambassador at London.)

In view of differences which are understood to exist between the two Governments as to the principles of law applicable in prize-court proceedings in cases involving American interests, and in order to avoid any misunderstanding as to the attitude of the United States in regard to such proceedings, you are instructed to inform the British Government that, in so far as the interests of American citizens are concerned, the Government of the United States will insist upon their rights under the principles and rules of international law as hitherto established, governing neutral trade in time of war, without limitation or impairment by orders in council or other municipal legislation by the British Government, and will not recognize the validity of prize-court proceedings taken under restraints imposed by British municipal law in derogation of the rights of American citizens under international law. (The New York Times, Aug. 4, 1915.)

The case of the seizure of the *Neches* called forth the following:

Paraphrase of American note, July 15, 1915, protesting against the seizure of the cargo of the *Neches*.

(The Secretary of State to the American ambassador at London.)

Ambassador Page is informed that it has been brought to the attention of the department that the steamship *Neches*, of American register, sailing from Rotterdam for the United States, carrying a general cargo, after being detained at the Downs, was brought to London, where it was required by the British authorities to discharge cargo, the property of American citizens.

It appears that the ground advanced to sustain this action is that the goods originated, in part at least, in Belgium, and fall, therefore, within the provisions of paragraph 4 of the order in council of March 11, which stipulates that every merchant vessel sailing from a port other than a German port, carrying goods of enemy origin, may be required to discharge such goods in a British or allied port.

Ambassador Page is instructed in this case to reiterate the position of the Government of the United States as set forth in the department's instruction of March 30, 1915, with respect to the order in council mentioned, the international invalidity of which the Government of the United States regards as plainly illustrated by the present instance of the seizure of American-owned goods passing from the neutral port of Rotterdam to a neutral port of the United States, merely because the goods came originally from territory in the possession of an enemy of Great Britain.

Mr. Page is also instructed to inform the foreign office that the legality of this seizure can not be admitted and that, in the view of the Government of the United States, it violates the right of the citizens of one neutral to trade with those of another, as well with those of belligerents, except in contraband or in violation of a legal blockade of an enemy seaport; and that the right of American owners of goods to bring them out of Holland in due course in neutral ships must be insisted upon by the United States, even though such goods may have come originally from the territories of enemies of Great Britain. He is directed further to insist upon the desire of this Government that goods taken from the *Neches*, which are the property of American citizens, should be expeditiously released to be forwarded to their destination, and to request that he be advised of the British Government's intended course in this matter at the earliest moment convenient to that Government. (The New York Times, Aug. 4, 1915.)

On July 31 the British Government replied to our protest against the seizure of the *Neches:*

[The New York Times, Aug. 4, 1915.]

(The secretary of state for foreign affairs to the American ambassador.)

The note which your excellency addressed to me on the 17th instant respecting the detention of the cargo of the steamship *Neches* has, I need hardly say, received the careful attention of His Majesty's Government.

The note which I had the honor to send to your excellency on the 23d instant has already explained the view of His Majesty's Government on the legal aspect of the question, though it was prepared before your excellency's communication of the 17th had been received, and, pending consideration by the Government of the United States of the views and arguments set forth in the British note of the 23d, it is unnecessary for me to say more on the question of right or of law.

There is, however, one general observation that seems relevant to the note from your excellency respecting the cargo of the *Neches*.

It is the practice of the German Government, in the waters through which the *Neches* was passing, to sink neutrals as well as British merchant vessels, irrespective of the destination of the vessel or origin of the cargo, and without proper regard or provision for the safety of passengers or crews, many of whom have lost their lives in consequence. There can be no question that this action is contrary to the recognized and settled rules of international law, as well as to the principles of humanity.

His Majesty's Government, on the other hand, have adhered to the rule of visit and search, and have observed the obligation to bring into port and submit to a prize court any ships or cargoes with regard to which they think they have a good case for detention or for condemnation as contraband.

His Majesty's Government are not aware, except from the published correspondence between the United States and Germany, to what extent reparation has been claimed from Germany by neutrals for loss of ships, lives, and cargoes, nor how far these acts have been the subject even of protest by the neutral Governments concerned.

While those acts of the German Government continue it seems neither reasonable nor just that His Majesty's Government should be pressed to abandon the rights claimed in the British note of the 23d and to allow goods from Germany to pass freely through waters effectively patrolled by British ships of war.

If, however, it be alleged that in particular cases and special circumstances hardships may be inflicted on citizens of neutral countries, His Majesty's Government are ready in such cases to examine the facts in a spirit of consideration for the interest of neutrals, and in this spirit they are prepared to deal with the cargo of the *Neches*, to which your excellency has called attention, if it is held that the particular circumstances of this case fall within this category.

I have, etc.,

E. GREY.

On the last day of July the British made reply to the "caveat" of July 14:

[The New York Times, Aug. 5, 1915.]

(The secretary of state for foreign affairs to the American ambassador.)

YOUR EXCELLENCY: (1) I have the honor to acknowledge the receipt of the note dated 16th instant, in which you were good enough to communicate to me for the information of His Majesty's Government the opinion held by the Government of the United States that,

in view of differences which they understand to exist between the two countries as to the principles of law applicable in cases before the prize court, they could not recognize the validity of proceedings taken in His Majesty's prize court in derogation of the rights of citizens of the United States.

(2) I do not understand to what divergence of views as to the principles of law applicable in cases before the prize court the Government of the United States refers, for I am not aware of any differences existing between the two countries as to the principles of law applicable in cases before such courts.

(3) British prize courts, according to the ancient form of commission under which they sit, are to determine cases which come before them according to the course of admiralty and the law of nations and the statutes of rules and regulations for the time being in force in that behalf.

As to the principles applied by the American prize courts, I note that in the case of the *Amy Warwick* (2 Sprague, 123) it was held that prize courts are subject to the instructions of their own sovereign. In the absence of such instructions their jurisdiction and rules of decision are to be ascertained by reference to the known powers of such tribunals and the principles by which they are governed under the public law and the practice of nations. It would appear, therefore, that the principles applied by the prize courts of the two countries are identical.

(4) As illustrating further the attitude adopted by the judges of British prize courts toward these two sources of law, the municipal legislation of its sovereign on the one hand and the principles of international law on the other, I should like to refer your excellency to a classical passage in the judgment of Lord Stowell, in the case of the *Fox*, in which that famous judge observed in the course of the discussion:

"A question has been stated. What would be the duty of the court under orders in council that were repugnant to the law of nations? It has been contended on one side that the court would, at all events, be bound to enforce the orders in council, on the other that the court would be bound to apply the rule of the law of nations adapted to the particular case in disregard of the orders in council.

"This court is bound to administer the law of nations to the subjects of other countries in the different relations in which they may be placed toward this country and its Government. That is what others have a right to demand for their subjects and to complain if they receive it not. This is its unwritten law, evidenced in the course of its decisions and collected from the common usage of civilized States. At the same time it is strictly true that by the constitution of this country the King in council possesses legislative rights over this court and has power to issue orders and instructions which it is bound to obey and enforce; and these constitute the written law of this court.

"These two propositions, that the court is bound to administer the law of nations and that it is bound to enforce the King's orders in council, are not at all inconsistent with each other, because these orders and instructions are presumed to conform themselves, under the given circumstances, to the principles of its unwritten law. They

are either directory applications of those principles to the cases indicated in them—cases which, with all the facts and circumstances belonging to them and which constitute their legal character, could be but imperfectly known to the court itself; or they are positive regulations, consistent with these principles, applying to matters which require more exact and definite rules than those general principles are capable of furnishing.

"The constitution of this court, relatively to the legislative power of the King in council, is analogous to that of the courts of common law relatively to that of the Parliament of this Kingdom. These courts have their unwritten law, the approved reasons, principles of natural reason and justice; they have likewise the written or statute law in acts of Parliament, which are directory applications of the same principles to particular subjects or positive regulations consistent with them upon matters which would remain too much at large if they were left to the imperfect information which the courts could extract from mere general speculations.

"What would be the duty of the individuals who preside in these courts if required to enforce an act of Parliament which contradicted those principles is a question which, I presume, they would not entertain a priori because they will not entertain a priori the supposition that any such will arise. In like manner this court will not let itself loose into speculations as to what would be its duty under such an emergency; because it can not, without extreme indecency, presume that any such emergency will happen. And it is the less disposed to entertain them because its own observation and experience attest the general conformity of such orders and instructions to its principles of unwritten law."

(5) The above passage has recently been quoted and adopted by the president of the prize court in the case of the *Zamora*, in which Sir S. Evans said: "I make bold to express the hope and belief that the nations of the world need not be apprehensive that orders in council will emanate from the Government of this country in such violation of the acknowledged laws of nations that it is conceivable that our prize tribunals, holding the law of nations in reverence, would be called upon to disregard and refuse obedience to the provisions of such orders."

(6) In the note which I handed to your excellency on the 23d of July, I endeavored to convince the Government of the United States, and I trust with success, that the measures that we have felt ourselves compelled to adopt, in consequence of the numerous acts committed by our enemies in violation of the laws of war and the dictates of humanity, are consistent with the principles of international law. The legality of these measures has not yet formed the subject of a decision of the prize court; but I wish to take this opportunity of reminding your excellency that it is open to any United States citizen whose claim is before the prize court to contend that any order in council which may affect his claim is inconsistent with the principles of international law, and is, therefore, not binding upon the court. If the prize court declines to accept his contentions, and if, after such a decision has been upheld on appeal by the judicial committee of His Majesty's privy council the Government of the United States of America consider that there is serious ground for holding that

the decision is incorrect and infringes the rights of their citizens, it is open to them to claim that it should be subjected to review by an international tribunal.

(7) This principle, that the decisions of the national prize courts may properly be subjected to international review, was conceded by Great Britain in article 7 of the Jay treaty of 1793 and by the United States of America under the treaty of Washington of 1871. Your excellency will no doubt remember that certain cases (collectively known as the "Matamoros cases") were submitted to the commission established under articles 12–17 of the treaty of Washington. In each of these cases proceedings in prize had been instituted in the prize courts of the United States, and in each case the judgment of the Supreme Court, the court of last resort in cases of prizes, had been obtained. The United States filed a demurrer in these cases, alleging that, as they had been heard by the prize courts of the United States of original and appellate jurisdiction, the decision of the appellate court was final, and no claim based upon it could be made before the commission. The demurrer was unanimously overruled and the cases heard, and the agent of the United States, in his reports of the proceedings of the commission, stated that he, personally, maintained no doubt of the jurisdiction of the commission as an international tribunal to review the decisions of the prize courts of the United States where the parties alleging themselves aggrieved had prosecuted their claims by appeals to the court of last resort; as this jurisdiction, however, had been sometimes questioned, he deemed it desirable that a formal adjudication by the commission should be held upon this question.

(8) The same principle was accepted both by the United States Government and His Majesty's Government in 1907 in connection with the proposed establishment of an international prize court, although certain constitutional difficulties have led the United States Government to propose that the right of recourse to the international prize court in connection with a decision of the Supreme Court of the United States should take the form of a direct claim for compensation.

(9) It is clear, therefore, that both the United States Government and His Majesty's Government have adopted the principle that the decisions of a national prize court may be open to review if it is held in the prize court and in the judicial committee of the privy council, on appeal, that the orders and instructions issued by His Majesty's Government in matters relating to prize are in harmony with the principles of international law; and, should the Government of the United States unfortunately feel compelled to maintain a contrary view. His Majesty's Government will be prepared to concert with the United States Government in order to decide upon the best way of applying the above principle to the situation which would then have arisen. I trust, however, that the defense of our action, which I have already communicated to your excellency, and the willingness of His Majesty's Government (which has been shown in so mnay instances) to make reasonable concessions to American interests, will prevent the necessity for such action arising.

(10) In any case I trust that the explanations given above will remove the misapprehension under which I can not but feel the

Government of the United States are laboring as to the principles applied by British prize courts in dealing with the cases which come before them.

I have, etc.,

E. GREY.

On the 18th of August England, after frequent declarations against declaring cotton contraband, included it in the list by the following proclamation:

[The New York Times, Aug. 18, 1915.]

British proclamation, August 21, 1915, declaring cotton contraband of war:

Now, therefore, we do hereby declare, by and with the advice of our privy council, that during the continuance of the war, or until we do give further public notice, the following articles will be treated as absolutely contraband, in addition to those set out in our royal proclamation aforementioned: Raw cotton, cotton linters, cotton waste, and cotton yarn.

And we do hereby further declare that this our royal proclamation shall take effect from the date of its publication in the London Gazette. (The New York Times, Aug. 22, 1915.)

The following communication was to clear up an alleged misunderstanding over the *Neches:*

NOTE VERBALE FROM THE BRITISH EMBASSY.

BRITISH EMBASSY,
Washington, August 6, 1915.

Comments have reached His Majesty's Government from various quarters that a misapprehension seems to have arisen with regard to the British note of July 31 concerning the steamer *Neches*, which it was asserted had been interpreted as stating that the cargo of the vessel had been seized as a reprisal measure against Germany's submarine policy.

Sir Edward Grey has requested me to explain that the misunderstanding arises no doubt from the brevity of the note. The note admits no illegality of procedure. The seizure was not meant in the nature of a reprisal but was based solely on the British contention of the absolute legality of the Orders in Council as explained in the note of July 23, to which the *Neches* note refers.

It is also explained that in stating that the British Government does not yet know what steps neutrals have taken against German submarine policy, no reference was intended to the action of the United States Government but to other neutrals, who have lost more ships than the United States but of whose action nothing is known by the British Government.

It should be further explained that in making reference to the German submarine policy the British Government only desired to point out that from its standpoint it was hardly just or reasonable that it should be asked by neutrals to abandon any of its legal rights while Germany commits illegalities both on Great Britain and on

neutrals, though it is admitted and regretted that interference with German trade however legal may be inconvenient to neutrals.

One of the chief claims of the British right to blockade neutral ports was the increased exportation as proof of reexport to Germany. The following communication is pertinent:

[Memorandum.]

AMERICAN EMBASSY,
London, June 3, 1915.

The American ambassador presents his compliments to His Majesty's secretary of state for foreign affairs and has the honor to acquaint him that he is in receipt of a communication from the consul general in London, in which he requests that he may be informed regarding the amount of raw cocoa and preparations of cocoa exported from Great Britain to Holland, Denmark, Sweden, Norway, and Italy during the four months ending April 30, 1915, as compared with the same period of 1914 and 1913. Mr. Page ventures to hope that should no inconvenience be found in so doing, Sir Edward Grey may be so good as to cause him to be furnished with the desired information in this connection.

THE BRITISH SECRETARY OF STATE FOR FOREIGN AFFAIRS TO AMBASSADOR PAGE.

FOREIGN OFFICE, *August 13, 1915.*

YOUR EXCELLENCY: I have the honor to refer to the memorandum which you were good enough to communicate on the 3d June last, in which you informed me of the desire of the United States consul general in London to be furnished with figures showing the amount of raw cocoa and preparations of cocoa exported from Great Britain to Holland, Denmark, Sweden, Norway, and Italy during the four months ending April 30, 1915, as compared with the same period in 1914 and 1913. Your excellency will remember that I had the honor to communicate to you tabular statement of these figures on the 16th ultimo.

His Majesty's ambassador at Washington reported on the 22d July that the acting counselor of the State Department had referred in conversation to the unfavorable impression created at Washington by reports as to the increase in British exports to northern European neutral ports since the outbreak of war received from Mr. Consul General Skinner, these reports having given figures showing increases in the British exports of some commodities to those countries. I am therefore communicating to Sir C. Spring-Rice statistics showing what the exports of the United Kingdom were in comparison with those of the United States during the first five months of this year, in order that this impression may be removed as soon as possible; but as I hear that statements, no doubt inspired by German agents, are being circulated in America to the effect that His Majesty's Government are trying to stop the legitimate trade of the United States with neutral countries in order to capture the trade for the British Empire, and are therefore allowing goods to be exported from the United Kingdom which they have not allowed to be imported into the same countries from the United States, I think

it well to inform your excellency immediately of the true state of the case, and with this view to invite attention to the following data and figures:

The increased reexport of cotton from the United Kingdom to Norway, Sweden, Denmark, and the Netherlands during the months of January to May, 1915, as compared with the same period in 1914, amounted to 503,995 centals of 100 pounds. The United States exported to the four countries mentioned during this period in 1915 as much as 3,353,638 centals, as compared with 204,177 centals during January to May, 1914, an increase of 3,149,461 centals, or six times the increase in the export of cotton from the United Kingdom.

The above figures for the United Kingdom are taken from the official customs returns; those for the United States have been carefully compiled by the war trade department from the manifests of those vessels which actually arrived with cargo from the United States in Scandinavian and Dutch ports during the five months, February to June, 1915, as compared with five-twelfths of the total recorded exports from the United States to those countries in the year ended June 30, 1914. It has been necessary to adopt this method, as the Monthly Summary of Foreign Commerce, issued by the United States Government, gives very few details with regard to American trade with those countries. It is evident that some shipments must have taken place from the United States to Scandinavia and the Netherlands which could not come within the scope of even the most circumstantial compilation of statistics drawn up from the manifests of examined ships alone, and I would therefore lay particular stress on the fact that the figures thus obtained by the war trade department are necessarily understatements of the total amounts actually shipped. But even from the figures thus obtained it is possible to show conclusively how much greater the increases in the American exports to Scandinavian countries and the Netherlands have been than those of Great Britain during the first five months of this year, not only in the case of cotton but in that of almost every other important commodity.

Reexports of rubber from the United Kingdom to Scandinavia and the Netherlands declined from 17,727 centals of 100 pounds in January–May, 1914, to 16,693 centals in January–May, 1915; on the other hand, exports of rubber from the United States to the same destinations increased from 1,579 centals to 5,040 centals. Larger reexports of rubber to the United States from this country have indeed taken place, but all other reexports of rubber have declined during this period, as the following figures show:

United Kingdom—Reexports of rubber.

	Centals of 100 pounds.		
	January–May, 1914.	January–May, 1915.	Increase in 1915 over 1914.
To all destinations	553,864	667,509	[1] 113,645
Of which to United States	248,435	418,619	[2] 170,184

[1] Or 20.5 per cent. [2] Or 68.6 per cent.

It will, therefore, be seen that this country has actually been supplying more rubber to the United States at the expense of other neutrals, while American exporters have taken advantage of this to ship increased quantities of rubber to Scandinavia and the Netherlands.

In the case of lubricating oils, the increase of United Kingdom exports to Scandinavia and Holland was 703,370 gallons; the increase of the United States exports during the same five months was 3,857,593 gallons, being five times as great as the British increase.

The increase in the reexports of unmanufactured tobacco from the United Kingdom to the same countries and over the same period was 2,937,244 pounds; the corresponding United States increase was 6,081,848 pounds. The British increase is mainly due to the diversion of tobacco grown in the British Dominions from continental to United Kingdom ports. The reexports of manufactured tobacco from the United Kingdom have actually declined, while exports of this commodity from the United States to Scandinavia and the Netherlands have hitherto been relatively insignificant. It is therefore altogether improbable that the United States can have lost trade in tobacco in consequence of the measures taken by His Majesty's Government.

United Kingdom reexports of cocoa have risen from 2,976,143 pounds in January–May, 1914, to 14,504,013 pounds in January–May, 1915, an increase, in round numbers, of 11,500,000. Exports from the United States for the same months have risen from 12,300 pounds in 1914 to 16,016,000 pounds in 1915, an increase of 16,000,000. These figures speak for themselves.

In the first five months of 1914 the United Kingdom reexports of coffee to the same countries amounted to 80,407 hundredweight, and the exports from the United States to 7,376 hundredweight. In the corresponding five months of 1915 the United Kingdom reexports were 263,488 hundredweight, while the imports from the United States were 285,760 hundredweight, showing that the United States exports, which were formerly much less, are now greater than those of the United Kingdom.

In the case of rice, the increased reexport from the United Kingdom, which amounted to 193,458 hundredweight for the period under review, was entirely due to the diversion to the United Kingdom ports of the large trade in Indian rice formerly carried on through Hamburg and other continental ports. The exports from the United States have increased from 262 hundredweight in January–May, 1914, to 27,800 hundredweight in January–May, 1915, an increase of 27,538 hundredweight.

The United Kingdom increase in the export of wheat flour to Scandinavia and the Netherlands during January–May, 1915, compared with 1914, was 47,045 hundredweight; the United States increase was 2,555,593 hundredweight for the same period.

For the same period the United Kingdom increase in the export of barley to Scandinavia and the Netherlands was 249,512 hundredweight; the United States increase, 2,016,892 hundredweight.

I could point to many other instances of similar proportionate increases in the exports of the United States to Scandinavia and the Netherlands as compared with exports to the same countries from

the United Kingdom during the last five months. In respect to the great majority of articles for which figures of United States trade can be given the increases in this trade are greater, and in some cases very considerably greater, than the increases in the United Kingdom trade.

In many cases increases in United Kingdom reexports are due to the facts that the products of British Indian and colonial products which formerly went direct to continental ports, such as Hamburg, Rotterdam, or Copenhagen, are now sent to the United Kingdom and thence distributed to old customers in Scandinavia and the Netherlands. Among such may be mentioned pepper, cinnamon, and other spices (largely the product of the British East Indies), Indian tea, palm kernels (mainly from British West Africa), and copra (mainly from the Straits Settlements and Australia). The direct trade of British overseas Dominions with the port of Hamburg alone is very great in normal times.

In many other instances our reexport trade for the first five months of this year shows a large decline. The following statement gives a few examples of such decreases in reexports from the United Kingdom to all destinations:

		1915 (5 months).	1914 (5 months).
Tallow, unrefined	hundredweight	190,179	378,926
Quicksilver	pounds	258,075	784,650
Machinery:			
Agricultural	tons	163	8,396
Sewing machines	number	853	6,683
Cotton waste	pounds	205,960	469,235
Carpet and carpet rugs	square yards	58,161	184,105
Silk, thrown	pounds	656	15,582
Beef, chilled	hundredweight	3,262	274,151
Meat, preserved	do	19,531	61,000
Butter	do	19,253	66,340
Bananas	bunches	127,217	258,310
Hemp	tons	19,399	25,673
Palm oil	hundredweight	177,529	382,513
Gas oil	gallons	9,800	241,724
Fuel oil	do	169,884	515,170

Everything in the statistics I have quoted tends to show that the mercantile community of the United States has made profits proportionately equal to or greater than those of the mercantile community of Great Britain in respect to all those demands which have inevitably arisen in Scandinavia and the Netherlands as a consequence of the closing of German ports. The total volume of the trade of the United States with these countries has increased 300 per cent, as Your Excellency will see from the accompanying table, taken from the United States official Monthly Summary of Foreign Commerce, which shows the comparative value of the total exports of the United States to Scandinavian countries and the Netherlands during the first five months of 1914 and 1915. The value of the total increase in those exports during this period amounted to $145,658,000.

I have, etc.,

E. GREY.

Value of United States exports.

To—	In January–May, 1914.	In January–May, 1915.	Increase in 1915 over 1914.
Norway	$3,679,000	$22,478,000	$18,799,000
Sweden	5,875,000	52,217,000	46,342,000
Denmark	6,421,000	41,321,000	34,900,000
Netherlands	44,114,000	89,731,000	45,617,000
Total	60,089,000	205,747,000	145,658,000

The same question was the subject of a British memorandum covering the items of seizure of cargoes of meats consigned from Chicago to Copenhagen:

[Memorandum from the British Embassy (received at the Department of State Oct. 12, 1915).]

BRITISH EMBASSY, *Washington.*

It has been frequently suggested and sometimes actually asserted that the seizure of the cargoes consigned by the meat packers of Chicago to Copenhagen and other Scandinavian ports in the four ships which were the subject of the recent proceedings in the prize court and in the other ships in regard to which these negotiations have taken place, was a seizure effected under orders in council the validity of which is disputed by the Government of the United States, the implication being that in some way these cargoes were seized under the order in council of March 11, 1915. It seems hardly necessary to point out that this was not so. The cargoes were seized for the greater part long before March, 1915, and the ground for the seizure was that they were conditional contraband destined from the first by the packers who shipped them largely for the use of the armies, navies, and government departments of Germany and Austria, and only sent to neutral ports with the object of concealing their true destination. This is a ground for seizure which has been asserted and upheld by none more strongly than American courts and the leading American authorities on international law for over 50 years. That foodstuffs on a ship bound for enemy territory may be seized and condemned if there can be shown to be (in the words of Lord Stowell) a "highly probable" destination for military or naval use has long been a universally recognized and admitted principle of international law, and it was the American courts which first insisted upon the further principle that if that destination is shown it does not matter that the goods were found upon a ship sailing to a neutral port. In the application of this doctrine—the doctrine of continuous voyage—the British Government had acquiesced at the time of the American Civil War, and the circumstances of modern warfare, the development of international trade, and the increase in the rapidity of and the facilities for transport both by land and sea have made the doctrine the more reasonable and indeed essential if a belligerent is to be allowed to exercise at all his undoubted right of interrupting the supply of foodstuffs to his enemy's military and naval forces.

At the outbreak of the present war and up to the time when the German methods of warfare had by their reckless disregard of all

the principles of law hitherto recognized and all the dictates of ordinary humanity made it necessary to adopt by way of retaliation measures calculated to cut off all German trade it was open to neutrals to continue to supply the civil population of that country openly by consignments to named merchants and dealers in Germany, and if that course had been adopted the case would have assumed a very different complexion, and it would then have been no doubt for the British Government to establish that the consignees in fact were known to be engaged in supplying the German Government. This, however, was not the course adopted by the Chicago packers. Vast quantities of lard, meat, bacon, and oils, far in excess of any possible requirements of the Scandinavian countries, were shipped to Copenhagen in part to named consignees but for the greater part to the packers' own agents or their order, and it was from the first claimed that all these consignments were shipped on or with a view to bona fide sales to neutrals. From the evidence, however, of cablegrams and letters in the possession of the British Government, which were ultimately produced in court, it was clear that the packers' agents in these neutral countries and also several of the consignees, who purported to be genuine neutral buyers, were merely persons engaged by the packers on commission or sent by the packers from their German branches for the purpose of insuring the immediate transit of these consignments to Germany. The whole scheme was disclosed in a series of letters from a Hamburg correspondent of Messrs. Cudahy, who was obviously in touch with the representatives in Hamburg and Rotterdam of practically all the packers. Agents and managers were sent from Germany to Copenhagen, where they established themselves in hotels. Two of these agents formed themselves into a Danish importing company, who had an enormous trade; the importance was emphasized of using the names of persons already in the provision trade; neutrals were induced for a consideration to lend their names as pretended consignees; careful instructions were given as to the names to be inserted in the bills of lading and other documents; and these agents kept the packers informed from time to time as to the prohibitions against export in the various neutral countries and as to the ports (including Genoa) to which it was most desirable to ship the goods. Some agents were found, on special instructions, to be moving about from place to place in Europe; and in one case the name of a German agent was in the cables changed to the innocent name of "Davis" when it was discovered that the original name was regarded as suspicious by the British censorship. The telegram showed orders given from Rotterdam for delivery to Copenhagen and Scandinavian ports, from Copenhagen for delivery to Swedish and Norwegian ports, and from Rotterdam and Copenhagen for delivery to Genoa; so that it obviously mattered little what the port of delivery was so long as it was conveniently situated for transit to Germany. Offers were, on special instructions, made in German currency for the convenience, obviously, of German buyers. There were clear indications of consultation with the packers' German houses as to the ports to which goods should be sent. A special cable code was invented, as to which, however, nothing more was disclosed than that "Arnhem" meant "ship to Copenhagen." Special and hastily devised arrangements were

made for payment by the establishing of large credits in Scandinavian banks, arrangements which from the urgency of the cables connected with them were obviously no part of the ordinary course of the packers' business, and in some cases there were payments which clearly came directly or indirectly from Germany and from the Deutsche Bank.

Indeed, it was stated to Messrs. Cudahy by their Hamburg correspondent that German bankers had evidently accumulated large balances in New York, Rotterdam, and Copenhagen; and as to the object of this there could be no doubt. There were indications sometimes of insurance of the goods in Germany, sometimes of precautions taken to insure in other than German companies; but, with a few unimportant exceptions, no insurance policies were produced. The Holland-America Line was seen to be refusing the packers' shipments, for it required a guaranty against reexport to Germany, which they could not give; and at an early stage the line was approached with a proposal that it should for the convenience and greater safety of the packers transfer some of its vessels to the American flag, a proposal to which it declined to accede. The consequence was that a special line was formed to engage in this trade. In spite of all this the pretense was stoutly kept up to the end that the whole business was bona fide neutral trade and that the packers had no interest beyond that of selling and consigning to neutral buyers, and it was not till the actual trial that the admission was made on behalf of some of them that a large part of the goods was probably intended to go through to Germany. And there were strong indications that it was not merely a civilian German destination which was contemplated. The German ports to which the goods were going, Hamburg, Lubeck, and Stettin, were all military or naval depots and headquarters of troops; the fat bacon, besides being of value for army rations, was, as the British Government were informed, in such demand in Germany as being the raw material of glycerine, which is the most important constituent of explosives. The meat was packed suitably for army use, and, indeed, the case of the smoked bacon and Armour's tinned boiled beef was of the kind supplied or offered to the British Army, and on the case put forward by the packers it was necessary to imagine that while engaged in supplying the armies of Great Britain, France, and Russia they had by some inexplicable oversight omitted to turn their attention to the opportunities for enormous profits offered by Germany and Austria. Messrs. Cudahy's Hamburg correspondent expressly stated with regard to the cargo on the four ships whose cases were tried that this information was that most of the goods had long ago been sold to Germany. He reported that Messrs. Morris's German agent was skeptical about the release of the *Alfred Nobel* cargo, as it was "too open-faced a case of the lard being intended for Germany," and that apparently this same German agent had suggested that the packers should make "a big noise" in the American press, and that the picture drawn in these frank communications was one of German agents eagerly awaiting the release of their goods and calculating the prospects of their being promptly passed through Danish and Scandinavian ports to Germany. Yet, in spite of all this, the claim was put forward and firmly maintained to the end that everything that had been done was perfectly bona fide trade, but documents which could easily have been produced had this been true were never forthcoming.

With perhaps a few minor exceptions, the packers produced no contracts, no invoices, no insurance policies, and no checks or other proof of sale or payments; their affidavits were in the most general terms and were put in at the very last moment, some of them even after the trial had begun, and no attempt was made by any written or other evidence to explain away the damning evidence of the telegrams and letters disclosed by the Crown. The inference was clear and irresistible that no such attempt could be made, and that any written evidence there was would have merely confirmed the strong suspicion, amounting to a practical certainty, that the whole of the operations of shipment to Copenhagen and other neutral ports were a mere mask to cover a determined effort to transmit vast quantities of supplies through to the German and Austrian Armies. It is claimed, therefore, that the seizure of all the cargoes was amply justified by the facts known at the time, the facts subsequently discovered and disclosed, and the conduct of the packers throughout, and that the British Government required to call in aid nothing but the long-recognized and elementary principles of international law.

Frequently the question has been asked whether our country has ever declared officially that the British blockade was illegal. The Lansing note of October 21, 1915, so declared. In paragraph 33 of this document the strongest possible words are employed—"that the blockade upon which such methods are partly founded is ineffective, illegal, and indefensible."

The entire note is here inserted:

THE SECRETARY OF STATE TO AMBASSADOR W. H. PAGE.

DEPARTMENT OF STATE,
Washington, October 21, 1915.

SIR: I desire that you present a note to Sir Edward Grey in the sense of the following:

(1) The Government of the United States has given careful consideration to your excellency's notes of January 7, February 10, June 22, July 23, July 31 (2), August 13, and to a note verbale of the British Embassy of August 6, relating to restrictions upon American commerce by certain measures adopted by the British Government during the present war. This Government has delayed answering the earlier of these notes in the hope that the announced purpose of His Majesty's Government "to exercise their belligerent rights with every possible consideration for the interest of neutrals" and their intention of "removig all causes of avoidable delay in dealing with American cargoes" and of causing "the least possible amount of inconvenience to persons engaged in legitimate trade," as well as their "assurances to the United States Gove~nment that they would make it their first aim to minimize the inconveniences" resulting from the "measures taken by the allied Governments," would in practice not unjustifiably infringe upon the neutral rights of American citizens engaged in trade and commerce. It is therefore a matter of regret that this hope has not been realized but that, on the contrary, interferences with American ships and cargoes destined in good faith to

neutral ports and lawfully entitled to proceed have become increasingly vexatious, causing American shipowners and American merchants to complain to this Government of the failure to take steps to prevent an exercise of belligerent power in contravention of their just rights. As the measures complained of proceed directly from orders issued by the British Government, are executed by British authorities, and arouse a reasonable apprehension that if not resisted they may be carried to an extent even more injurious to American interests, this Government directs the attention of His Majesty's Government to the following considerations:

(2) Without commenting upon the statistics presented by His Majesty's Government to show that the export trade of the United States has increased in volume since the war began further than to point out that the comparative values fail to take into account the increased price of commodities resulting from a state of war or to make any allowance for the diminution in the volume of trade which the neutral countries in Europe previously had with the nations at war, a diminution which compelled them to buy in other markets, I will pass directly to the matters which constitute the specific complaints of this Government.

(3) First. The detentions of American vessels and cargoes which have taken place since the opening of hostilities have, it is presumed, been pursuant to the enforcement of the orders in council, which were issued on August 20 and October 29, 1914, and March 11, 1915, and relate to contraband traffic and to the interception of trade to and from Germany and Austria-Hungary. In practice these detentions have not been uniformly based on proofs obtained at the time of seizure, but many vessels have been detained while search was made for evidence of the contraband character of cargoes or of an intention to evade the nonintercourse measures of Great Britain. The question consequently has been one of evidence to support a belief of—in many cases a bare suspicion of—enemy destination, or occasionally of enemy origin of the goods involved. Whether this evidence should be obtained by search at sea before the vessel or cargo is taken into port, and what the character of the evidence should be, which is necessary to justify the detention, are the points to which I direct your excellency's attention.

(4) In regard to search at sea, an examination of the instructions issued to naval commanders of the United States, Great Britain, Russia, Japan, Spain, Germany, and France from 1888 to the beginning of the present war shows that search in port was not contemplated by the Government of any of these countries. On the contrary, the context of the respective instructions shows that search at sea was the procedure expected to be followed by the commanders. All of these instructions impress upon the naval officers the necessity of acting with the utmost moderation—and in some cases commanders are specifically instructed—in exercising the right of visit and search to avoid undue deviation of the vessel from her course.

(5) An examination of the opinions of the most eminent text writers on the laws of nations shows that they give practically no consideration to the question of search in port outside of examination in the course of regular prize-court proceedings.

(6) The assertion by His Majesty's Government that the position of the United States in relation to search at sea is inconsistent with

its practice during the American Civil War is based upon a misconception. Irregularities there may have been at the beginning of that war, but a careful search of the records of this Government as to the practice of its commanders shows conclusively that there were no instances when vessels were brought into port for search prior to instituting prize-court proceedings, or that captures were made upon other grounds than in the words of the American note of November 7, 1914, "evidence found on the ship under investigation and not upon circumstances ascertained from external sources." A copy of the instruction issued to American naval officers on August 18, 1862, for their guidance during the Civil War is appended.

(7) The British contention that "modern conditions" justify bringing vessels into port for search is based upon the size and seaworthiness of modern carriers of commerce and the difficulty of uncovering the real transaction in the intricate trade operations of the present day. It is believed that commercial transactions of the present time, hampered as they are by censorship of telegraph and postal communication on the part of belligerents, are essentially no more complex and disguised than in the wars of recent years, during which the practice of obtaining evidence in port to determine whether a vessel should be held for prize proceedings was not adopted. The effect of the size and seaworthiness of merchant vessels upon their search at sea has been submitted to a board of naval experts, which reports that—

"At no period in history has it been considered necessary to remove every package of a ship's cargo to establish the character and nature of her trade or the service on which she is bound, nor is such removal necessary. * * *

"The facilities for boarding and inspection of modern ships are in fact greater than in former times, and no difference, so far as the necessities of the case are concerned, can be seen between the search of a ship of 1,000 tons and one of 20,000 tons—except possibly a difference in time—for the purpose of establishing fully the character of her cargo and the nature of her service and destination. * * * This method would be a direct aid to the belligerents concerned in that it would release a belligerent vessel overhauling the neutral from its duty of search and set it free for further belligerent operations."

(8) Turning to the character and sufficiency of the evidence of the contraband nature of shipments to warrant the detention of a suspected vessel or cargo for prize proceedings, it will be recalled that when a vessel is brought in for adjudication courts of prize have heretofore been bound by well-established and long-settled practice to consider at the first hearing only the ship's papers and documents, and the goods found on board, together with the written replies of the officers and seamen to standing interrogatories taken under oath, alone and separately, as soon as possible and without communication with or instruction by counsel, in order to avoid possibility of corruption and fraud.

(9) Additional evidence was not allowed to be introduced except upon an order of the court for "further proof" and then only after the cause had been fully heard upon the facts already in evidence or when this evidence furnished a ground for prosecuting the inquiry further. This was the practice of the United States courts during the War of 1812, the American Civil War, and the Spanish-American War, as is evidenced by the reported decisions of those courts, and

has been the practice of the British prize courts for over a century. This practice has been changed by the British prize court rules adopted for the present war by the order in council of August 5. Under these new rules there is no longer a "first hearing" on the evidence derived from the ship, and the prize court is no longer precluded from receiving extrinsic evidence for which a suggestion has not been laid in preparatory evidence. The result is, as pointed out above, that innocent vessels or cargoes are now seized and detained on mere suspicion while efforts are made to obtain evidence from extraneous sources to justify the detention and the commencement of prize proceedings. The effect of this new procedure is to subject traders to risk of loss, delay, and expense so great and so burdensome as practically to destroy much of the export trade of the United States to neutral countries of Europe.

(10) In order to place the responsibility for the delays of vessels and cargoes upon American claimants, the order in council of October 29, 1914, as pointed out in the British note of February 10, seeks to place the burden of proof as to the noncontraband character of the goods upon the claimant in cases where the goods are consigned "to order" or the consignee is not named or the consignee is within enemy territory. Without admitting that the onus probandi can rightfully be made to rest upon the claimant in these cases, it is sufficient for the purposes of this note to point out that the three classes of cases indicated in the order in council of October 29 apply to only a few of the many seizures or detentions which have actually been made by British authorities.

(11) The British contention that in the American Civil War the captor was allowed to establish enemy destination by "all the evidence at his disposal," citing the *Bermuda* case (3 Wall., 515), is not borne out by the facts of that case. The case of the *Bermuda* was one of "further proof," a proceeding not to determine whether the vessel should be detained and placed in a prize court, but whether the vessel having been placed in prize court, should be restored or condemned. The same ruling was made in the case of the *Sir William Peel* (5 Wall., 517). These cases, therefore, can not be properly cited as supporting the course of a British captor in taking a vessel into port, there to obtain extrinsic evidence to justify him in detaining the vessel for prize proceedings.

(12) The further contention that the greatly increased imports of neutral countries adjoining Great Britain's enemies raise a presumption that certain commodities, such as cotton, rubber, and others more or less useful for military purposes, though destined for those countries, are intended for reexportation to the belligerents, who can not import them directly, and that this fact justifies the detention for the purpose of examination of all vessels bound for the ports of those neutral countries, notwithstanding the fact that most of the articles of trade have been placed on the embargo lists of those countries, can not be accepted as laying down a just or legal rule of evidence. Such a presumption is too remote from the facts and offers too great opportunity for abuse by the belligerent, who could, if the rule were adopted, entirely ignore neutral rights on the high seas and prey with impunity upon neutral commerce. To such a rule of legal presumption this Government can not accede, as it is opposed to those

fundamental principles of justice which are the foundation of the jurisprudence of the United States and Great Britain.

(13) Before passing from the discussion of this contention as to the presumption raised by increased importations to neutral countries, this Government directs attention to the fact that His Majesty's Government admit that the British exports to those countries have also materially increased since the present war began. Thus Great Britain concededly shares in creating a condition which is relied upon as a sufficient ground to justify the interception of American goods destined to neutral European ports. If British exports to those ports should be still further increased, it is obvious that, under the rule of evidence contended for by the British Government, the presumption of enemy destination could be applied to a greater number of American cargoes, and American trade would suffer to the extent that British trade benefited by the increase. Great Britain can not expect the United States to submit to such manifest injustice or to permit the rights of its citizens to be so seriously impaired.

(14) When goods are clearly intended to become incorporated in the mass of merchandise for sale in a neutral country it is an unwarranted and inquisitorial proceeding to detain shipments for examination as to whether those goods are ultimately destined for the enemy's country or use. Whatever may be the conjectural conclusions to be drawn from trade statistics, which when stated by value are of uncertain evidence as to quantity, the United States maintains the right to sell goods into the general stock of a neutral country and denounces as illegal and unjustifiable any attempt of a belligerent to interfere with that right on the ground that it suspects that the previous supply of such goods in the neutral country which the imports renew or replace has been sold to an enemy. That is a matter with which the neutral vendor has no concern and which can in no way affect his rights of trade. Moreover, even if goods listed as conditional contraband are destined to an enemy country through a neutral country, that fact is not in itself sufficient to justify their seizure.

(15) In view of these considerations, the United States, reiterating its position in this matter, has no other course but to contest seizures of vessels at sea upon conjectural suspicion, and the practice of bringing them into port for the purpose—by search or otherwise—of obtaining evidence for the purpose of justifying prize proceedings of the carriage of contraband or of breaches of the order in council of March 11. Relying upon the regard of the British Government for the principles of justice so frequently and uniformly manifested prior to the present war, this Government anticipates that the British Government will instruct their officers to refrain from these vexatious and illegal practices.

(16) Second. The Government of the United States further desires to direct particular attention to the so-called "blockade" measures imposed by the order in council of March 11. The British note of July 23, 1915, appears to confirm the intention indicated in the note of March 15, 1915, to establish a blockade so extensive as to prohibit trade with Germany or Austria-Hungary, even through the ports of neutral countries adjacent to them. Great Britain, however, admits that it should not, and gives assurances that it will not,

interfere with trade with the countries contiguous to the territories of the enemies of Great Britain. Nevertheless, after over six months' application of the "blockade" order, the experience of American citizens has convinced the Government of the United States that Great Britain has been unsuccessful in her efforts to distinguish between enemy and neutral trade. Arrangements have been made to create in these neutral countries special consignees, or consignment corporations, with power to refuse shipments and to determine when the state of the country's resources requires the importation of new commodities. American commercial interests are hampered by the intricacies of these arrangements, and many American citizens justly complain that their bona fide trade with neutral countries is greatly reduced as a consequence, while others assert that their neutral trade, which amounted annually to a large sum, has been entirely interrupted.

(17) It makes this practice even more harassing to neutral traders that the British authorities require a consignor to prove that his shipments are not bound to an enemy of Great Britain, even when the articles are on the embargo list of the neutral country to which they are destined, and that notwithstanding the assertion in the last British note that interference with such trade by a belligerent can only take place "provided, of course, that he (the belligerent) can establish" that the commerce is with the enemy.

(18) While the United States Government was at first inclined to view with leniency the British measures which were termed in the correspondence but not in the order in council of March 11 a "blockade," because of the assurances of the British Government that inconvenience to neutral trade would be minimized by the discretion left to the courts in the application of the order in council and by the instructions which it was said would be issued to the administrative and other authorities having to do with the execution of the so-called "blockade" measures, this Government is now forced to the realization that its expectations, which were fully set forth in its note of March 30, were based on a misconception of the intentions of the British Government. Desiring to avoid controversy and in the expectation that the administration of the order in council would conform to the established rules of international law, this Government has until now reserved the question of the actual validity of the order in council of March 11, in so far as it is considered by the Government or Great Britain to establish a blockade within the meaning of that term as understood in the law and the practice of nations; but in the circumstances now developed it feels that it can no longer permit the validity of the alleged blockade to remain unchallenged.

(19) The declaration of Paris in 1856, which has been universally recognized as correctly stating the rule of international law as to blockade, expressly declares that "blockades, in order to be binding, must be effective; that is to say, maintained by force sufficient really to prevent access to the coast of the enemy." The effectiveness of a blockade is manifestly a question of fact. It is common knowledge that the German coasts are open to trade with the Scandinavian countries and that German naval vessels cruise both in the North Sea and the Baltic and seize and bring into German ports neutral

vessels bound for Scandinavian and Danish ports. Furthermore, from the recent placing of cotton on the British list of contraband of war, it appears that the British Government have themselves been forced to the conclusion that the blockade is ineffective to prevent shipments of cotton from reaching their enemies, or else that they are doubtful as to the legality of the form of blockade which they have sought to maintain.

(20) Moreover, it is an essential principle which has been universally accepted that a blockade must apply impartially to the ships of all nations. This was set forth in the declaration of London, is found in the prize rules of Germany, France, and Japan, and has long been admitted as a basic principle of the law of blockade. This principle, however, is not applied in the present British "blockade," for, as above indicated, German ports are notoriously open to traffic with the ports of Denmark, Norway, and Sweden. So strictly has this principle been enforced in the past that in the Crimean War the judicial committee of the privy council on appeal laid down that if belligerents themselves trade with blockaded ports they can not be regarded as effectively blockaded. (*The Franciska*, Moore P. C., 56.) This decision has special significance at the present time, since it is a matter of common knowledge that Great Britain exports and reexports large quantities of merchandise to Norway, Sweden, Denmark, and Holland, whose ports, so far as American commerce is concerned, she regards as blockaded. In fact, the British note of August 13 itself indicates that the British exports of many articles, such as cotton, lubricating oil, tobacco, cocoa, coffee, rice, wheat flour, barley, spices, tea, copra, etc., to these countries have greatly exceeded the British exports of the same articles for the corresponding period of 1914. The note also shows that there has been an important British trade with these countries in many other articles, such as machinery, beef, butter, cotton waste, etc.

(21) Finally, there is no better settled principle of the law of nations than that which forbids the blockade of neutral ports in time of war. The declaration of London, though not regarded as binding upon the signatories because not ratified by them, has been expressly adopted by the British Government without modification as to blockade in the British order in council of October 29, 1914. Article 18 of the declaration declares specifically that "the blockading forces most not bar access to neutral ports or coasts." This is, in the opinion of this Government, a correct statement of the universally accepted law as it exists to-day and as it existed prior to the declaration of London. The meaning of this statement is elucidated by Mr. Renault in the report of the drafting committee upon the convention, in which he states:

"This rule has been thought necessary the better to protect the commercial interests of neutral countries; it completes article 1, according to which a blockade must not extend beyond the ports and coasts of the enemy, which implies that as it is an operation of war it must not be directed against a neutral port, in spite of the importance to a belligerent of the part played by that port in supplying his adversary."

As the conference assembled at London upon the invitation of the British Government, it is important to recall the instruction of Sir

Edward Grey to the British delegates, "setting out the views of His Majesty's Government, founded on the decisions of the British courts," in which he says:

"A blockade must be confined to the ports and coasts of the enemy, but it may be instituted of one port or of several ports or of the whole of the seaboard of the enemy. It may be instituted to prevent the ingress only or egress only, or both."

He added:

"Where the ship does not intend to proceed to the blockaded port the fact that goods on board are to be sent on by sea or by inland transport is no ground for condemnation."

In support of this announcement Sir Edward Grey referred to several decisions of British prize courts, among which an early one of 1801 held that goods shipped from London to Emden, thence inland or by canal to Amsterdam, then blockaded by sea, were not subject to condemnation for breach of blockade. (*Jonge Pieter*, 4 C. R., 79.) This has been the rule for a century, so that it is scarcely necessary to recall that the *Matamoras* cases, well known to the British Government, support the same rule, that neutral ports may not be blockaded, though "trade with unrestricted inland commerce between such a port and the enemy's territory impairs undoubtedly, and very seriously impairs, the value of a blockade of the enemy's coast."

(22) Without mentioning the other customary elements of a regularly imposed blockade, such as notification of the particular coast line invested, the imposition of the penalty of confiscation, etc., which are lacking in the present British "blockade" policy, it need only be pointed out that, measured by the three universally conceded tests above set forth, the present British measures can not be regarded as constituting a blockade in law, in practice, or in effect.

(23) It is incumbent upon the United States Government, therefore, to give the British Government notice that the blockade, which they claim to have instituted under the order in council of March 11, can not be recognized as a legal blockade by the United States.

(24) Since the Government of Great Britain has laid much emphasis on the ruling of the Supreme Court of the United States in the *Springbok* case, that goods of contraband character seized while going to the neutral port of Nassau, though actually bound for the blockaded ports of the South, were subject to condemnation, it is not inappropriate to direct attention to the British view of this case in England prior to the present war, as expressed by Sir Edward Grey in his instructions to the British delegates to the London Conference in 1908:

"It is exceedingly doubtful whether the decision of the Supreme Court was in reality meant to cover a case of blockade running in which no question of contraband arose. Certainly if such was the intention the decision would pro tanto be in conflict with the practice of the British courts. His Majesty's Government sees no reason for departing from that practice, and you should endeavor to obtain general recognition of its correctness."

It may be pointed out that the circumstances surrounding the *Springbok* were essentially different from those of the present day, to which the rule laid down in that case is sought to be applied. When the *Springbok* case arose the ports of the Confederate States

were effectively blockaded by the naval forces of the United States, though no neutral ports were closed, and a continuous voyage through a neutral port required an all-sea voyage terminating in an attempt to pass the blockading squadron.

(25) Third. It appears to be the position of Great Britain that if, as the United States alleges, American citizens or American interests are directly and adversely affected by the British policies of contraband and nonintercourse, resulting in interference with ships and cargoes, they should seek redress in the prize courts which the British Government have established, and that, pending the exhaustion of such legal remedies with the result of a denial of justice, the British Government "can not continue to deal through the diplomatic channels with the individual cases."

(26) It is declared that this was the course followed by the United States during the American Civil War and the Spanish War, and that both countries have supported the practice by allowing their prize-court decisions, when shown to be unjust or inadequate, to be reviewed by an international tribunal, as was done under the treaties of 1794 and 1871. The ground upon which this contention is put forth, and the results which would follow, if the course of procedure suggested were accepted, give the impression that His Majesty's Government do not rely upon its soundness or strength. Nevertheless, since it has been advanced, I can not refrain from presenting certain considerations which will show that the proposed course embodies the form rather than the substance of redress. The cases which the British Government would have claimants present to their prize courts are essentially different from cases arising wholly within the jurisdiction of a foreign country. They result from acts committed by the British naval authorities upon the high seas, where the jurisdiction over neutral vessels is acquired solely by international law. Vessels of foreign nationality, flying a neutral flag and finding their protection in the country of that flag, are seized without facts warranting a reasonable suspicion that they are destined to blockaded ports of the enemy or that their cargoes are contraband, although the possession of such facts is by international law essential to render a seizure legal. The officers appear to find their justification in the orders in council and regulations of the British Government, in spite of the fact that in many of the present cases the orders in council and the regulations for their enforcement are themselves complained of by claimants as contrary to international law. Yet the very courts which, it is said, are to dispense justice to dissatisfied claimants, are bound by orders in council. This is unmistakably indicated to be the case in the British note of July 31, which states that—

"British prize courts 'according to the ancient form of commission under which they sit are to determine cases according to the course of admiralty and the law of nations and the statutes, rules, and regulations for the time being in force in that behalf.'"

This principle, the note adds, has recently been announced and adhered to by the British prize court in the case of the *Zamora*. It is manifest, therefore, that if prize courts are bound by the laws and regulations under which seizures and detentions are made, and which claimants allege are in contravention of the law of nations, those courts are powerless to pass upon the real ground of complaint or

give redress for wrongs of this nature. Nevertheless, it is seriously suggested that claimants are free to request the prize court to rule upon a claim of conflict between an order in council and a rule of international law. How can a tribunal, fettered in its jurisdiction and procedure by municipal enactments, declare itself emancipated from their restrictions and at liberty to apply the rules of international law with freedom? The very laws and regulations which bind the court are now matters of dispute between the Government of the United States and that of His Britannic Majesty. If Great Britain followed, as she declares that she did, the course of first referring claimants to local remedies in cases arising out of American wars, it is presumed that she did so because of her knowledge or understanding that the United States had not sought to limit the jurisdiction of its courts of prize by instructions and regulations violative of the law and practice of nations or open to such objection.

(27) The British note of February 10 states that the British Government of the American Civil War, "in spite of remonstrances from many quarters, placed full reliance on the American prize courts to grant redress to the parties interested in cases of alleged wrongful capture by American ships of war and put forward no claim until the opportunity for redress in those courts had been exhausted."

The Government of the United States recalls that during the progress of that war Great Britain, in several instances, demanded through diplomatic channels damages for seizures and detentions of British ships alleged to have been made without legal justification. Among these may be mentioned the cases of the *Magicienne*, the *Don Jose*, the *Labuan*, and the *Saxon*. Two of these cases were, at the time the demands were made, before American prize courts for adjudication. It is understood also that during the Boer War, when British authorities seized the German vessels, the *Hertzog*, the *General*, and the *Bundesrath*, and released them without prize proceedings, compensation for damages suffered was arranged through diplomatic channels.

(28) There is, furthermore, a real and far-reaching injury for which prize courts offer no means of reparation. It is the disastrous effect of the methods of the allied Governments upon the general right of the United States to enjoy its international trade free from unusual and arbitrary limitations imposed by belligerent nations. Unwarranted delay and expense in bringing vessels into port for search and investigation upon mere suspicion has a deterrent effect upon trade ventures, however lawful they may be, which can not be adequately measured in damages. The menace of interference with legal commerce causes vessels to be withdrawn from their usual trade routes and insurance on vessels and cargoes to be refused, while exporters for the same reason are unable or unwilling to send their goods to foreign markets, and importers dare not buy commodities abroad because of the fear of their illegal seizure or because they are unable to procure transportation. For such injuries there can be no remedy through the medium of courts established to adjust claims for goods detained or condemned. For specific injuries suffered by private interests prize courts, if they are free to apply the law of nations, might mete out an adequate indemnity, but for the injury to the trade of a nation by the menace of unwarranted interference with its lawful and established pursuit there can manifestly be found no remedy in

the prize courts of Great Britain, to which United States citizens are referred for redress.

(29) There is another ground why American citizens can not submit their wrongs arising out of undue detentions and seizures to British prize courts for reparation which I can not pass over unnoticed. It is the manner in which British courts obtain jurisdiction of such cases. The jurisdiction over merchant vessels on the high seas is that of the nation whose flag it rightfully flies. This is a principle of the law and practice of nations fundamental to the freedom of the high seas. Municipal enactments of a belligerent power can not confer jurisdiction over or establish rules of evidence governing the legality of seizures of vessels of neutral nationality on the high seas. International law alone controls the exercise of the belligerent right to seize and detain such vessels. Municipal laws and regulations in violation of the international rights of another nation can not be extended to the vessels of the latter on the high seas so as to justify a belligerent nation bringing them into its ports, and, having illegally brought them within its territorial jurisdiction, compelling them to submit to the domestic laws and regulations of that nation. Jurisdiction obtained in such a manner is contrary to those principles of justice and equity which all nations should respect. Such practice should invalidate any disposition by a municipal court of property thus brought before it. The Government of the United States has therefore viewed with surprise and concern the attempt of His Majesty's Government to confer upon the British prize courts jurisdiction by this illegal exercise of force in order that these courts may apply to vessels and cargoes of neutral nationalities, seized on the high seas, municipal laws and orders which can only rightfully be enforceable within the territorial waters of Great Britain or against vessels of British nationality when on the high seas.

(30) In these circumstances the United States Government feels that it can not reasonably be expected to advise its citizens to seek redress before tribunals which are, in its opinion, unauthorized by the unrestricted application of international law to grant reparation, nor to refrain from presenting their claims directly to the British Government through diplomatic channels.

(31) This Government is advised that vessels and cargoes brought in for examination prior to prize proceedings are released only upon condition that costs and expenses incurred in the course of such unwarranted procedure, such as pilotage, wharfage, demurrage, harbor dues, warehouseage, unlading costs, etc., be paid by the claimants or on condition that they sign a waiver of right to bring subsequent claims against the British Government for these exactions. This Government is loath to believe that such ungenerous treatment will continue to be accorded American citizens by the Government of His Britannic Majesty; but in order that the position of the United States Government may be clearly understood, I take this opportunity to inform your excellency that this Government denies that the charges incident to such detentions are rightfully imposed upon innocent trade or that any waiver of indemnity exacted from American citizens under such conditions of duress can preclude them from

obtaining redress through diplomatic channels or by whatever other means may be open to them.

(32) Before closing this note, in which frequent reference is made to contraband traffic and contraband articles, it is necessary, in order to avoid possible misconstruction, that it should be clearly understood by His Majesty's Government that there is no intention in this discussion to commit the Government of the United States to a policy of waiving any objections which it may entertain as to the propriety and right of the British Government to include in their list of contraband of war certain articles which have been so included. The United States Government reserves the right to make this matter the subject of a communication to His Majesty's Government at a later day.

(33) I believe it has been conclusively shown that the methods sought to be employed by Great Britain to obtain and use evidence of enemy destination of cargoes bound for neutral ports and to impose a contraband character upon such cargoes are without justification; that the blockade, upon which such methods are partly founded, is ineffective, illegal, and indefensible; that the judicial procedure offered as a means of reparation for an international injury is inherently defective for the purpose; and that in many cases jurisdiction is asserted in violation of the law of nations. The United States, therefore, can not submit to the curtailment of its neutral rights by these measures, which are admittedly retaliatory, and therefore illegal, in conception and in nature, and intended to punish the enemies of Great Britain for alleged illegalities on their part. The United States might not be in a position to object to them if its interests and the interests of all neutrals were unaffected by them, but, being affected, it can not with complacence suffer further subordination of its rights and interests to the plea that the exceptional geographic position of the enemies of Great Britain require or justify oppressive and illegal practices.

(34) The Government of the United States desires, therefore, to impress most earnestly upon His Majesty's Government that it must insist that the relations between it and His Majesty's Government be governed, not by a policy of expediency but by those established rules of international conduct upon which Great Britain in the past has held the United States to account when the latter nation was a belligerent engaged in a struggle for national existence. It is of the highest importance to neutrals not only of the present day but of the future that the principles of international right be maintained unimpaired.

(35) This task of championing the integrity of neutral rights, which have received the sanction of the civilized world against the lawless conduct of belligerents arising out of the bitterness of the great conflict which is now wasting the countries of Europe, the United States unhesitatingly assumes, and to the accomplishment of that task it will devote its energies, exercising always that impartiality which from the outbreak of the war it has sought to exercise in its relations with the warring nations.

I inclose as supplements to this instruction the United States Navy order of August 18, 1862, and a statement regarding vessels detained by British authorities. These two documents should be transmitted as inclosures in your note to Sir Edward Grey.

I am, etc.,

ROBERT LANSING.

The reference in the note to our instructions to our naval authorities in the Civil War is that of August 18, 1862, which is as follows:

INSTRUCTIONS OF THE SECRETARY OF THE NAVY TO FLAG OFFICERS COMMANDING SQUADRONS AND OFFICERS COMMANDING CRUISERS RELATIVE TO THE RIGHT OF SEARCH.

NAVY DEPARTMENT, *August 18, 1862.*

SIR: Some recent occurrences in the capture of vessels, and matters pertaining to the blockade, render it necessary that there should be a recapitulation of the instruction heretofore from time to time given, and also of the restrictions and precautions to be observed by our squadrons and cruisers.

It is essential, in the remarkable contest now waging, that we should exercise great forbearance, with great firmness, and manifest to the world that it is the intention of our Government, while asserting and maintaining our own rights, to respect and scrupulously regard the rights of others. It is in this view that the following instructions are explicitly given:

First. That you will exercise constant vigilance to prevent supplies of arms, munitions, and contraband of war from being conveyed to the insurgents, but that under no circumstances will you seize any vessel within the waters of a friendly nation.

Second. That, while diligently exercising the right of visitation on all suspected vessels, you are in no case authorized to chase and fire at a foreign vessel without showing your colors and giving her the customary preliminary notice of a desire to speak and visit her.

Third. That when that visit is made, the vessel is not then to be seized without a search carefully made, so far as to render it reasonable to believe that she is engaged in carrying contraband of war for or to the insurgents, and to their ports directly or indirectly by transshipment, or otherwise violating the blockade; and that if, after visitation and search, it shall appear to your satisfaction that she is in good faith, and without contraband, actually bound and passing from one friendly or so-called neutral port to another and not bound or proceeding to or from a port in the possession of the insurgents, then she can not be lawfully seized.

Fourth. That, to avoid difficulty and error in relation to papers which strictly belong to the captured vessel and mails that are carried or parcels under official seals, you will, in the words of the law, "preserve all the papers and writings found on board and transmit the whole of the originals unmutilated to the judge of the district to which such prize is ordered to proceed"; but official seals, or locks, or fastenings of foreign authorities are in no case, nor on any pretext, to be broken or parcels covered by them read by any naval authorities, but all bags or other things covering such parcels and duly sealed and fastened by foreign authorities will be, in the discretion of the United States officer to whom they may come delivered to the consul, commanding naval officer, or legation of the foreign Government, to be opened, upon the understanding that whatever is contraband or important as evidence concerning the character of a captured vessel will be remitted to the prize court or to the Secretary of State at Washington, or such sealed bag or parcels may be at

forwarded to this department, to the end that the proper authorities of the foreign Government may receive the same without delay.

You are specially informed that the fact that a suspicious vessel has been indicated to you as cruising in any limit which has been prescribed by this department does not in any way authorize you to depart from the practice of the rules of visitation, search, and capture prescribed by the law of nations.

Very respectfully,

GIDEON WELLES,
Secretary of the Navy.

The famous *Zamora* case referred to in the October 21 note, which virtually declared orders in council in contravention of international law as invalid and which virtually conceded our position as held from the beginning, is printed in the April number of the American Journal of International Law, and is too long to insert here. All students of this controversy should study that decision.

October 28, just seven days after our famous note, the British Government announced another order in council, known as the "Declaration of London Order in Council."

AMBASSADOR W. H. PAGE TO THE SECRETARY OF STATE.

[Telegram.]

AMERICAN EMBASSY,
London, October 28, 1915.

Following is text of order in council, dated October 20, 1915:

"Whereas by the Declaration of London Order in Council No. 2, 1914, His Majesty was pleased to declare that during the present hostilities the provisions of the said Declaration of London should, subject to certain exceptions and modifications therein specified, be adopted and put in force by His Majesty's Government; and

"Whereas by article 57 of the said declaration it is provided that the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly; and

"Whereas it is no longer expedient to adopt the said article:

"Now, therefore, His Majesty, by and with the advice of his privy council, is pleased to order, and it is hereby ordered, that from and after this date article 57 of the Declaration of London shall cease to be adopted and put in force.

"In lieu of the said article, British prize courts shall apply the rules and principles formerly observed in such courts.

"This order may be cited as 'The Declaration of London Order in Council, 1915.'

"And the lords commissioners of His Majesty's Treasury, the lords commissioners of the Admiralty, and each of His Majesty's principal secretaries of state, the president of the probate, divorce, and admiralty division of the high court of justice, all other judges of His Majesty's prize courts, and all governors, officers, and authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain."

PAGE.

Further requisition orders were issued on November 9, 1915, touching the carriage of foodstuffs:

[Inclosure.]

[Extract from the second supplement to the London Gazette of Tuesday, Nov. 9, 1915.]

REQUISITION OF SHIPS (CARRIAGE OF FOODSTUFFS)—ORDER IN COUNCIL, 1915.

At the Court at Buckingham Palace, the 10th day of November, 1915.

Present: The King's most excellent majesty in council.

Whereas a state of war exists between His Majesty and the German Emperor, the Emperor of Austria King of Hungary, the Sultan of Turkey, and the King of the Bulgarians;

And whereas His Majesty holds it to be his prerogative duty as well as his prerogative right to take all steps necessary for the defense and protection of the realm;

And whereas it has been made to appear to His Majesty that it is essential to the defense and protection of the realm that all British ships registered in the United Kingdom should be made liable to requisition in manner hereinafter appearing for the carriage of foodstuffs and of any other article of commerce;

Now, therefore, His Majesty is pleased, by and with the advice of his privy council, and in exercise of his prerogatives as aforesaid and of all other powers him thereunto enabling, to order, and it is hereby ordered, that any British ship registered in the United Kingdom may until further order be requisitioned by and on behalf of His Majesty for the carriage of foodstuffs and of any other articles of commerce, and such requisition is to take effect upon notice of requisition being served as hereinafter provided on the owner of any such ship;

And His Majesty is further pleased, by and with the advice aforesaid, to authorize and direct the president of the board of trade to give effect to this order by causing notice of requisition to be served on the owner of any such ship;

And His Majesty is further pleased, by and with the advice aforesaid, to declare that service of notice of requisition on an owner shall be deemed sufficient and effective if served in the case of an individual owner by being addressed to such individual owner and left at his last-known place of business or abode, and in the case of joint owners by being addressed to such joint owners and left at the last-known business addresses or places of abode of such joint owners, and in the case of a company or corporation by being addressed to such company or corporation and left at the registered or other address of such company or corporation, or in any of the aforesaid cases by being addressed to the managing owner, ship's husband, or other the person to whom the management of the ship is by law intrusted by or on behalf of the owners, and left at the registered or other last-known address or place of abode of such managing owner, ship's husband, or other such person, as the case may be.

And His Majesty is further pleased, by and with the advice aforesaid, to declare that any notice of requisition which the president of

the board of trade may cause to be served hereunder may be signed by any person or persons from time to time authorized for such purpose, either generally or specially by the president of the board of trade.

And the president of the board of trade is to give instructions and directions accordingly.

ALMERIC FITZROY.

[Inclosure 2.]

[Extract from the second supplement to the London Gazette of Tuesday, Nov. 9, 1915.]

CARRIAGE OF CARGOES ON BRITISH VESSELS BETWEEN FOREIGN PORTS—ORDER IN COUNCIL.

At the court at Buckingham Palace, the 10th day of November, 1915.

Present: The King's most excellent majesty in council.

Whereas a state of war exists between His Majesty and the German Emperor, the Emperor of Austria, King of Hungary, the Sultan of Turkey, and the King of the Bulgarians; and

Whereas His Majesty holds it to be his prerogative duty as well as his prerogative right to take all steps necessary for the defense and protection of the realm; and

Whereas it has been made to appear to His Majesty that it is essential to the defense and protection of the realm that, in the exercise of his prerogatives as aforesaid, he should prohibit, as from and after the 1st day of December, 1915, the carrying of cargo from any foreign port to any other foreign port by any British steamship registered in the United Kingdom exceeding 500 tons gross tonnage—and whether or not such ship while carrying such cargo calls at any intermediate port within His Majesty's dominions—unless the owner or charterer of such steamship has been granted exemption by license as hereinafter provided: Now, therefore,

His Majesty is pleased, by and with the advice of his Privy Council, and in exercise of his prerogatives as aforesaid, and of all other powers him thereunto enabling, to order, and it is hereby ordered, that from and after the 1st day of December, 1915, no British steamship registered in the United Kingdom exceeding 500 tons gross tonnage shall carry any cargo from any foreign port to any other foreign port—and whether or not such ship while carrying such cargo calls at any intermediate port within His Majesty's dominions—unless the owner or charterer of such steamship has been granted exemption by license as hereinafter provided.

And His Majesty doth hereby declare that the expression "foreign port" herein used shall mean and include any port outside His Majesty's dominions.

And His Majesty, by and with the advice aforesaid, and in exercise of his prerogatives and powers as aforesaid, is further pleased to authorize and direct the president of the board of trade to appoint a committee of persons to carry out and give effect to the provisions hereof, and that the said committee shall have power to grant licenses of exemption therefrom to or in favor of owners or

charterers of such steamships as aforesaid, which licenses may be general in reference to classes of ships or their voyages or special.

And His Majesty is further pleased to authorize the president of the board of trade from time to time to add other persons as members of such committee, and to substitute as members thereof other persons for such members as may from time to time die, resign, or be or become incapable of acting thereon.

And the president of the board of trade is to act and to give instructions and directions accordingly.

ALMERIC FITZROY.

In the beginning of the year 1916 Great Britain extended her restrictions of commerce on the sea by a proposed black list, called "The enemy trading act."

AMBASSADOR W. H. PAGE TO THE SECRETARY OF STATE.

[Telegram.]

AMERICAN EMBASSY,
London, January 19, 1916.

Trading with the enemy (extension of powers) act, 1915: An act is provided for the extension of the restrictions relating to trading with the enemy to persons to whom, though not residents or carrying on business in enemy territory, it is by reason of their enemy nationality or enemy associations expedient to extend such restrictions (23d December, 1915). Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) His Majesty may by proclamation prohibit all persons or bodies of persons, incorporated or unincorporated, resident, carrying on business, or being in the United Kingdom, from trading with any persons or bodies of persons not resident or carrying on business in enemy territory or in territory in the occupation of the enemy (other than persons or bodies of persons, incorporated or unincorporated, residing or carrying on business solely within His Majesty's dominions), wherever by reason of the enemy nationality or enemy association of such persons or bodies of persons, incorporated or unincorporated, it appears to His Majesty expedient so to do; and if any person acts in contravention of any such proclamation he shall be guilty of a misdemeanor, triable and punishable in like manner as the offense of trading with the enemy; (2) any list of persons and bodies of persons, incorporated or unincorporated, with whom such trading is prohibited by a proclamation under this act, may be varied or added to by an order made by the Lords of the Council on the recommendation of a secretary of state; (3) the provisions of the trading with the enemy acts, 1914 and 1915, and of the customs (war powers) (No. 2) act, 1915, and all other enactments relating to trading with the enemy shall, subject to such exceptions and adaptations as may be prescribed by order in council, apply in respect of such persons and bodies of persons as aforesaid, as if for references

therein to trading with the enemy there were substituted references to trading with such persons and bodies of persons as aforesaid, and for references to enemies there were substituted references to such persons and bodies of persons as aforesaid, and for references to offences under the trading with the enemy acts, 1914 and 1915, or any of those acts there were substituted references to offences under this act; (4) for the purpose of this act a person shall be deemed to have traded with a person or body of persons to whom a proclamation issued under this act applies if he enters into any transaction or does any act with, to, on behalf of, or for the benefit of such a person or body of persons, which, if entered into or done with, to, on behalf of, or for the benefit of an enemy, would be trading with the enemy.

2. This act may be cited as the trading with the enemy (extension of powers) act, 1915.

PAGE.

Six days later, January 25, our Government warned against acts "pregnant with possibilities of undue interference with American trade" and reserved the right to make protest:

THE SECRETARY OF STATE TO AMBASSADOR W. H. PAGE.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 25, 1916.

Your 3601 and 3602, January 19.

Department has been given consideration to enemy trading act approved December 23 last, the apparent object of which is to prevent any person doing business in the United Kingdom from trading with the enemies of Great Britain or persons having enemy association in any other part of the world, and the department has reached the conclusion that this act is pregnant with possibilities of undue interference with American trade, if in fact such interference is not now being practiced. As it is an opinion generally held in this country—in which this Government shares—that the act has been framed without a proper regard for the right of persons domiciled in the United States, whether they be American citizens or subjects of countries at war with Great Britain, to carry on trade with persons in belligerent countries, and that the exercise of this right may be subject to denial or abridgment in the course of the enforcement of the act, the Government of the United States is constrained to express to His Majesty's Government the grave apprehensions which are entertained on this subject by this Government, by the Congress, and by traders domiciled in the United States. It is, therefore, necessary to bring these views to the attention of Sir Edward Grey and to present to him a formal reservation on the part of this Government of the right to protest against the application of this act, in so far as it affects the trade of the United States, and to contest the legality or rightfulness of imposing restrictions upon the freedom of American trade in this manner.

LANSING.

Three weeks later, February 16, 1916, the British Government made reply, in which it declared its intention to consider the rights of neutrals not inconsistent with the claims of a controlling belligerent. It reaffirmed the enemy-trading act:

AMBASSADOR W. H. PAGE TO THE SECRETARY OF STATE.

No. 3092.] AMERICAN EMBASSY,
London, February 19, 1916.

SIR: With reference to the department's cablegram No. 2774, of January 25, and my telegraphic reply No. 3913, of the 18th instant, relative to the possible effects of the trading with the enemy (extension of powers) act, 1915, on the commerce of the United States, I have the honor to transmit herewith, for the information of the department, a copy of the note dated the 16th instant, which has been addressed to the embassy by the foreign-trade department of the foreign office in this connection.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

THE BRITISH SECRETARY OF STATE FOR FOREIGN AFFAIRS TO AMBASSADOR W. H. PAGE.

No. 15404/45.] FOREIGN OFFICE,
FOREIGN TRADE DEPARTMENT,
LANCASTER HOUSE, ST. JAMES, S. W.,
February 16, 1916.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 26th ultimo relative to the possible effects of the trading with the enemy (extension of powers) act, 1915, on United States commerce.

The act was framed with the object of bringing British trading with the enemy regulations into greater harmony with those adopted by the French Government since the commencement of the war by applying in some degree the test of nationality in the determination of enemy character in addition to the old test of domicile, which experience has shown can not provide a sufficient basis under modern commercial conditions for measures intended to deprive the enemy of all assistance, direct or indirect, from national resources.

His Majesty's Government realized, however, that the application of this principle to its fullest extent, while entirely legitimate and in accordance with the practice of other countries, might, if applied at the present time to commercial activities as widespread as those of British subjects, involve avoidable inconvenience and loss to innocent traders.

They were careful, therefore, in devising the necessary legislation not only to avoid any definition which would impose enemy status upon all persons of enemy nationality and associations, but also to take powers of discrimination which would enable them to apply the purely commercial restrictions contemplated only in regard to

those persons from whom it was necessary in British interests to withhold the facilities afforded by British resources.

His Majesty's Government have therefore abstained from a course of action admittedly within their rights as belligerents, which is not only the existing practice of the French Government but in strict accordance with the doctrine openly avowed by many other States to be the basis upon which their trading-with-the-enemy regulations would be founded in the event of war, and have confined themselves to passing a piece of purely domestic legislation empowering them to restrict the activities and trade of persons under British jurisdiction in such a manner and to such an extent as may seem to them to be necessary in the national interest.

His Majesty's Government readily admit the right of persons of any nationality resident in the United States to engage in legitimate commercial transactions with any other persons. They can not admit, however, that this right can in any way limit the right of other Governments to restrict the commercial activities of their nationals in any manner which may seem desirable to them by the imposition of prohibitions and penalties which are operative solely upon persons under their jurisdiction.

In claiming this right, which appears to them to be inherent in sovereignty and national independence, His Majesty's Government desire to assure the United States Government that they will exercise it with every possible care to avoid injury to neutral commerce, and they venture to think that the voluntary limitation of their powers by the terms of the trading with the enemy (extension of powers) act, 1915, is evidence of their desire and intention to act with the greatest possible consideration for neutral interests.

I have, etc.,

L. WORTHINGTON EVANS,
For the Secretary of State.

Three days later, February 19, AmbassadorPage communicated the following report on the detention of American goods by the authorities of prize courts.

Following this report is a statement of James Flett, consular agent at Kirkwall, detailing procedure there by the authority of the admiralty touching vessels diverted to that port:

AMBASSADOR W. H. PAGE TO THE SECRETARY OF STATE.

No. 3093.] AMERICAN EMBASSY,
London, February 19, 1916.

SIR: I have the honor to report to the department the following facts which have presented themselves with reference to goods belonging to American citizens which have been detained by the British Government authorities and placed in the prize court.

The foreign office has undertaken to inform the embassy of the seizure of any vessel carrying American goods and also of the items of these goods which have been detained and placed in the prize court. Upon the receipt of such information as to the vessel or a list of the goods detained and held for prize-court proceedings, the embassy is in the practice of immediately cabling it to the department.

The Department of State, it is understood, informs the American shipper that the embassy has cabled that the goods have been placed in the prize court. In a great many instances the shipper telegraphs or writes direct to the embassy requesting it to arrange for the release of their goods.

The embassy understands that, inasmuch as prize-court proceedings are to take place, no diplomatic representations will be received by the British Government in connection with these goods, unless such representations are pursuant to special instructions of the Government at Washington.

In almost all cases where such representations are made to the foreign office under instructions from the department, the foreign office replies that the procurator general finds that it is impossible to comply with the request for release, and that the claimants must communicate with the procurator general's office, where, if satisfactory proof is produced the goods will be released; or, if the proofs appear to be unsatisfactory, the goods will be held until the sitting of the prize court, which will then pass its judgment on the goods.

As the procurator general's office will receive no official communication from the embassy in matters of this kind, the shipper must either transmit his evidence direct or employ his agents or a solicitor in London.

The larger American shippers usually have an office or an agent in London who understands prize-court proceedings and is capable of appearing at the procurator general's office in support of the claim for the release of the goods. The smaller shippers who have no office in London are in this way placed at a disadvantage.

In view of the fact that the consul general is in the practice of communicating directly with the procurator general's office in regard to all claims of American citizens, I respectfully suggest that the department advise the shipper to send the necessary papers to him direct, unless the department wishes further diplomatic representations to be made.

In all cases where the shipper writes direct to the embassy, and it is found that communication with the foreign office would be of no avail, I shall advise the shipper to address himself directly to the consul general, and shall send him a list of the documents which he should transmit with his letter.

I also feel that the American exporter should be informed as to the exact status of prize courts in international relations, and of the position of goods actually in the prize court, and that the British Government will receive no diplomatic representations in these cases except under instructions from the Government in view of special circumstances involved.

The procurator general's office has advised me informally that the documents which should be submitted to it in support of claims for the release of goods are as follows: The originals of—

1. Bills of ladings.
2. Invoices.
3. All previous correspondence with firms in the country to which the goods are shipped.
4. Contracts.
5. Insurance policies.

6. An affidavit setting forth all facts of the case.

I feel sure that this procedure will be the quickest and easiest way of disposing to the satisfaction of the shipper such cases as the British Government will not release from the prize court on diplomatic representations, or where goods are in the prize court and no diplomatic representations are in order.

I have, etc.,

WALTER HINES PAGE.

CONSUL GENERAL SKINNER TO THE SECRETARY OF STATE.

No. 1248] AMERICAN CONSULATE GENERAL,
London, February 24, 1916.

SIR: I have the honor to inclose herewith copy of a letter received from the American consular agent at Kirkwall setting forth the routine practice of the British authorities on the arrival of vessels diverted to that port by the Admiralty.

I have, etc., R. P. SKINNER.

[Inclosure.]

CONSULAR AGENT FLETT TO CONSUL LATHAM.

KIRKWALL, *February 14, 1916.*

SIR: I find I have to acknowledge receipt of your letter of the 7th instant:

So soon as a vessel from an American or other port arrives here she is boarded by an Admiralty officer, who examines the ship's papers and also the crew. She is also boarded by the customs officials, who examine the ship's papers and search the ship in the ordinary way. The whole ship's papers are removed by the customs officials and brought ashore with them and retained in the customs office here. The papers are then examined by the indoor staff of the customs here and all particulars relating to ship and cargo are telegraphed to London. The papers are retained by the customs until they receive instructions whether the vessel is to be allowed to proceed or whether the whole cargo or part thereof is to be placed in the prize court. If the vessel is allowed to proceed, the ship's papers are then handed over by the customs to the Admiralty port officer, and he either hands them over to the captain personally or sends them on board the vessel. In the event of part or the whole of the cargo being placed into the prize court, the ship's papers are handed by the Admiralty port officer to the prize officer, who is sent on board that vessel to whichever port she might be ordered to discharge.

If a vessel is cleared, the customs authorities give the master of the vessel a clearance card to that effect. It is very seldom that a vessel ever breaks bulk here. I have known of a small quantity of cargo that has been prize courted being taken out of a vessel here, so as to allow the vessel to proceed and avoid unnecessary delay and expense in sending her to another port to discharge. It is, however, very seldom that this happens. If I have not made myself sufficiently clear, I shall be very pleased on hearing from you to give you further information on any points that you may wish further information.

I am, etc.,

JAMES FLETT, *Consular Agent.*

On the 16th of March our Government communicated with the American ambassador at London on the matter of detention of goods, and inclosed a communication of the Secretary of State to the William Amer Co. of a week before.

THE ACTING SECRETARY OF STATE TO AMBASSADOR W. H. PAGE.

No. 3374] DEPARTMENT OF STATE,
Washington, March 16, 1916.

SIR: The department is in receipt of your No. 3093, of February 19, 1916, reporting facts which have presented themselves with reference to goods belonging to American citizens which have been detained by the British authorities and placed in the prize court.

In this relation there is inclosed herewith for your information a copy of the letter sent by the department to the William Amer Co., under date of March 9, 1916.

With a view to having the consul general render such assistance as may be possible and proper in an endeavor to bring about the release of goods which have been seized by the British authorities, the department has addressed similar communications to other American shippers who have complained respecting the seizure of goods shipped by them to European ports.

I am, etc.,

FRANK L. POLK.

The communication follows:

[Inclosure.]

THE SECRETARY OF STATE TO THE WILLIAM AMER CO.

DEPARTMENT OF STATE,
Washington, March 9, 1916.

GENTLEMEN: The department has received your letter of March 1, 1916, in regard to the seizure by the British authorities of a quantity of glazed kid shipped by you to Sweden on the steamship *Alexandria.*

The department incloses for your information a print containing an order in council issued by the British Government March 11, 1915, regarding the stopping of goods shipped to or from Germany. This order, which is at present the subject of diplomatic discussion between the Government of the United States and the Government of Great Britain, shows the action which the British Government declare their intention to take in the matter of stopping goods which they desire to have taken by interested persons to obtain the restoration of their goods or payment therefor.

The American consul general has informed the department that if shippers will communicate with him directly regarding shipments which have been detained under this order in council he will ascertain the status of the goods, and, when possible, endeavor to effect their release. The consul general states that, even though goods may be classified as contraband, the procurator general will consider evidence indicating innocent ultimate destination of such goods, and has advised him (the consul general) to obtain, wherever possible, original correspondence with buyers or consignors. The consul general

further states that when claims for goods are submitted through the consulate general there is always hope that the release of the property will follow without formal proceedings or expense, and that if such release is not brought about the papers in any given case in which prize-court proceedings may be instituted may be turned over to British solicitors. The consul general points out that in all cases it is futile to forward requests for release of goods unsupported by documentary history showing the ownership and destination of the consignment which it is sought to have released. The procurator general has suggested that the papers which should be presented are the originals of invoices, contracts, insurance policies, bills of lading, all correspondence with concerns in the country to which the goods are shipped, and an affidavit setting forth the facts in a given case.

As has just been stated, the order in council regarding the stopping of goods shipped to or from Germany is at present the subject of diplomatic discussion between the Government of the United States and the Government of Great Britain. And neither anything contained in this letter nor any action of the consul general in connection with his efforts to bring about the release of goods which have been detained should be construed as an admission on the part of the Government of the United States of the legality of the action taken by the British Government under this order.

It is suggested that you might deem it advisable to communicate directly with the consul general regarding the shipment referred to in your letter. On the other hand, if these goods have been sent to the prize court, it may be well for you to take prompt steps to establish your rights before the court. The department can not undertake to assist private persons in the conduct of proceedings before the court.

Should you desire to consult private counsel in England regarding this matter, the American consul general at London will doubtless be able to furnish you on your request with the names of a number of reputable attorneys, one of whom may be employed in the matter. It should be stated in this connection, however, that obviously neither the consul general nor the department can be responsible for the integrity or ability of any lawyer who may be employed as a result of the information furnished by the consul general.

I am, etc.,

ALVEY A. ADEE,
For the Secretary of State.

Six months after our "ineffectual, illegal, and indefensible" blockade note the British Government replied as follows. Our note was of date October 21:

THE BRITISH AMBASSADOR TO THE SECRETARY OF STATE.

No. 107.] BRITISH EMBASSY,
Washington, April 24, 1916.

SIR: I have the honor, in obedience to instructions received from Sir Edward Grey, His Majesty's principal secretary of state for foreign affairs, to transmit to you herewith a memorandum embodying the reply to the representations of your Government in regard to

restrictions on trade, which were communicated to Sir Edward Grey in Mr. Page's note of November 5 last, in pursuance to your instructions dated October 21.

I have, etc., CECIL SPRING-RICE.

[Inclosure.]

MEMORANDUM.

The communication addressed by the United States ambassador in London to Sir E. Grey on the 5th of November, 1915, has received the careful attention of His Majesty's Government, in consultation with their allies, the French Government, and His Majesty's Government have now the honor to make the following reply:

2. The first section (pars. 3–15) of the United States note relates to cargoes detained by the British authorities in order to prevent them from reaching an enemy destination, and the complaint of the United States Government is summarized in paragraph 33 to the effect that the methods sought to be employed by Great Britain to obtain and use evidence of enemy destination of cargoes bound for neutral ports and to impose a contraband character upon such cargoes are without justification.

3. The wording of this summary suggests that the basis of the complaint of the United States Government is not so much that the shipments intercepted by the naval forces were really intended for use in the neutral countries to which they were dispatched, as that the dispatch of goods to the enemy countries has been frustrated by methods which have not been employed by belligerent nations in the past. It would seem to be a fair reply to such a contention that new devices for dispatching goods to the enemy must be met by new methods of applying the fundamental and acknowledged principle of the right to intercept such trade.

4. The question whether the exercise of the right of search can be restricted to search at sea was dealt with in Sir E. Grey's note of the 7th of January, 1915, and His Majesty's Government would again draw attention to the facts that information has constantly reached them of attempts to conceal contraband intended for the enemy in innocent packages, and that these attempts can only be frustrated by examination of the ship and cargo in port. Similarly, in Sir E. Grey's note of the 10th of February, 1915, it was pointed out that the size of modern steamships, and their capacity to navigate the waters where the allied patrols have to operate, whatever the conditions of the weather, frequently render it a matter of extreme danger, if not of impossibility, even to board the vessels unless they are taken into calm water for the purpose. It is unnecessary to repeat what was said in that note. There is nothing that His Majesty's Government could withdraw or that the experience of the officers of the allied fleets has tended to show was inaccurate.

5. When visit and search at sea are possible, and when a search can be made there which is sufficient to secure belligerent rights, it may be admitted that it would be an unreasonable hardship on merchant vessels to compel them to come into port, and it may well be believed that maritime nations have hesitated to modify the instructions to their naval officers that it is at sea that these operations should be carried out, and that undue deviation of the vessel from her course must be avoided. That, however, does not affect the fact that it

would be impossible under the conditions of modern warfare to confine the rights of visit and search to an examination of the ship at the place where she is encountered without surrendering a fundamental belligerent right.

6. The effect of the size and seaworthiness of merchant vessels upon their search at sea is essentially a technical question, and accordingly His Majesty's Government have thought it well to submit the report of the board of naval experts, quoted by the United States ambassador in paragraph 7 of this note, to Admiral Sir John Jellico for his observations. The unique experience which this officer has gained as the result of more than 18 months in command of the grand fleet renders his opinion of peculiar value. His report is as follows:

"It is undoubtedly the case that the size of modern vessels is one of the factors which renders search at sea far more difficult than in the days of smaller vessels. So far as I know, it has never been contended that it is necessary to remove every package of a ship's cargo to establish the character and nature of her trade, etc.; but it must be obvious that the larger the vessel and the greater the amount of cargo the more difficult does examination at sea become, because more packages must be removed.

"This difficulty is much enhanced by the practice of concealing contraband in bales of hay and passengers' luggage, casks, etc., and this procedure, which has undoubtedly been carried out, necessitates the actual removal of a good deal of cargo for examination in suspected cases. This removal can not be carried out at sea except in the very finest weather.

"Further, in a large ship the greater bulk of the cargo renders it easier to conceal contraband, especially such valuable metals as nickel, quantities of which can easily be stowed in places other than the holds of a large ship.

"I entirely dispute the contention, therefore, advanced in the American note that there is no difference between the search of a ship of 1,000 tons and one of 20,000 tons. I am sure that the fallacy of the statement must be apparent to anyone who has ever carried out such a search at sea.

"There are other facts, however, which render it necessary to bring vessels into port for search. The most important is the manner in which those in command of German submarines, in entire disregard of international law and of their own prize regulations, attack, and sink merchant vessels on the high seas, neutral as well as British, without visiting the ship, and therefore without any examination of the cargo. This procedure renders it unsafe for a neutral vessel which is being examined by officers of a British ship to remain stopped on the high seas, and it is therefore in the interests of the neutrals themselves that the examination should be conducted in port.

"The German practice of misusing United States passports in order to procure a safe conduct for military persons and agents of enemy nationality makes it necessary to examine closely all suspect persons, and to do this effectively necessitates bringing the ship into harbor."

7. Sir John Jellicoe goes on to say:

"The difference between the British and the German procedure is that we have acted in the way which causes the least discomfort to

neutrals. Instead of sinking neutral ships engaged in trade with the enemy, as the Germans have done in so many cases in direct contravention of article 113 of their own Naval Prize Regulations, 1909, in which it is laid down that the commander is only justified in destroying a neutral ship which has been captured if—

"(*a*) She is liable to condemnation, and

"(*b*) The bringing in might expose the warship to danger or imperil the success of the operations in which she is engaged at the time—

we examine them, giving as little inconvenience as modern naval conditions will allow, sending them into port only where this becomes necessary.

"It must be remembered, however, that it is not the allies alone who send a percentage of neutral vessels into port for examination, for it is common knowledge that German naval vessels, as stated in paragraph 19 of the American note, 'seize and bring into German ports neutral vessels bound for Scandinavian and Danish ports.'

"As cases in point, the interception by the Germans of the American oil tankers *Llama* and *Platuria* in August last may be mentioned. Both were bound to America from Sweden and were taken into Swinemünde for examination."

8. The French ministry of marine shares the views expressed by Sir John Jellicoe on the question of search at sea, and has added the following statement:

"UNAUTHORIZED TRANSLATION OF PARAGRAPH 8 OF THE BRITISH MEMORANDUM.

"Naval practice, as it formerly existed, consisting in searching ships on the high seas, a method handed down to us by the old navy, is no longer adaptable to the conditions of navigation at the present day. Americans have anticipated its insufficiency and have foreseen the necessity of substituting some more effective method. In the instructions issued by the American Navy Department, under date of June 20, 1898, to the cruisers of the United States, the following order is found (clause 13):

"'If the latter (the ship's papers) show contraband of war, the ship should be seized; if not, she should be set free, unless by reason of strong grounds for suspicion a further search should seem to be requisite.'

"Every method must be modified having regard to the modifications of material which men have at their disposal, on condition that the method remains humane and civilized.

"The French Admiralty considers that to-day a ship, in order to be searched, should be brought to a port whenever the state of the sea, the nature, weight, volume, and stowage of the suspect cargo, as well as the obscurity and lack of precision of the ship's papers, render search at sea practically impossible or dangerous for the ship searched.

"On the other hand, when the contrary circumstances exist, the search should be made at sea.

"Bringing the ship into port is also necessary and justified when the neutral vessel having entered the zone or vicinity of hostilities,

(1) it is a question, in the interests of the neutral ship herself, of avoiding for the latter a series of stoppages and successive visits and of establishing once for all her innocent character and of permitting her thus to continue her voyage freely and without being molested; and (2) the belligerent, within his rights of legitimate defense, is entitled to exercise special vigilance over unknown ships which circulate in these waters."

9. The question of the locality of the search is, however, one of secondary importance. In view of His Majesty's Government the right of a belligerent to intercept contraband on its way to his enemy is fundamental and incontestable, and ought not to be restricted to intercepting contraband which happens to be accompanied on board the ship by proof sufficient to condemn it. What is essential is to determine whether or not the goods were on their way to the enemy. If they were, a belligerent is entitled to detain them, and having regard to the nature of the struggle in which the allies are engaged they are compelled to take the most effectual steps to exercise that right.

10. The United States note then passes to the subject of the procedure in the prize courts, and maintains that courts of prize have hitherto been bound, by well-established and long-settled practice, to consider at the first hearing only the ship's papers and documents and the answers to the standing interrogatories, and to exclude all other evidence unless and until an order has been made for "further proof." Attention is drawn to the fact that the above practice, which had been followed by the British prize courts for over a century, and also by the prize courts of the United States, was changed by the prize-court rules issued by His Majesty's Government at the outbreak of the present war. Upon this matter His Majesty's Government have to point out that they recognized some years ago that modern conditions had rendered the old rules obsolete, and new rules had been prepared under the guidance and supervision of the late Lord Gorell, whose experience as president of the admiralty division of the high court of justice rendered him well qualified to deal with the subject. Twenty months' experience of the working of the new rules in the prize court has served to show the utility of the changes.

11. It may further be pointed out that the practice and procedure adopted in prize courts are not settled or regulated by international law, but they are determined by each nation for itself. The procedure described in the United States note was gradually evolved in the British courts, and though it was adopted by the United States it has never been followed in the prize courts of France or of any other continental nation, nor does the fact that the United States followed the British practice prevent Great Britain or any other of the allied nations from introducing such changes in the procedure as modern circumstances may call for. International law only requires that the practice in prize courts of the belligerent nation should afford a fair hearing to all claims put forward by neutrals, and should enable the court to arrive at a just conclusion upon the evidence. Subject to that condition, each nation may regulate the practice to be followed in its prize courts. As an instance, the recent Italian decree of May 30, 1915, may be quoted, in article 6 of which it is enacted that the prize court "will draw up rules of procedure for its future guidance." The division of prize-court proceedings

into two distinct phases, the first hearing and the hearing on further proof, under the early British and American practice, was merely a rule of procedure. Similarly the exclusion of extraneous evidence until the making of an order for further proof was only a rule of procedure. His Majesty's Government were, therefore, not only at liberty but felt bound to alter these rules so soon as they were advised that the rules were obsolete and might work injustice.

12. The old practice and procedure had become archaic in form and belonged to days long before the modern improvements in legal procedure were developed, days when, for instance, the parties interested were prevented from giving any evidence as witnesses in actions which affected their rights. The alterations in the prize-court practice and rules were conceived and made in the spirit of those improvements. The objects with which the old practice was abolished were to prevent delay, to eliminate technicalities, and to enable the parties to prove all the true and material facts, and to place their respective cases fully before the court.

13. Moreover, it must be remembered that the conditions under which goods are conveyed by sea from one country to another have completely changed. In the days when the old rules were developed the ship's papers were a safe and satisfactory guide as to the nature and destination of the cargo. If the ship's papers had not indicated the true object and purpose of the consignment, the consignee would have been uncertain what to do with the goods when they arrived and the commercial transaction would have been hampered, for there were in those days no fast mails or telegraph cables by which supplementary information could be conveyed. If there were no ship's papers, or if they obviously were not genuine, it was a ground for condemnation. When there was no reason to doubt them, the court could safely take the papers as indicating the real transaction. Nowadays the conditions have changed; the papers may outwardly be perfectly genuine and complete, yet they may have been prepared with the express purpose of concealing the real nature of the transaction. These misleading papers would not, however, occasion any difficulty in dealing with the goods on their arrival, because the necessary instructions to the consignee can be conveyed by other means. Consequently the old rule that the papers on board the ship must alone be taken into consideration, and evidence from other sources excluded, is no longer practicable; indeed, the system of attributing to the ship's papers the character of final and conclusive proof upheld in the United States note would encourage shippers of contraband to falsify the papers, as they would thereby insure absolutely immunity from capture. It is in the same way due to change of circumstances that the evidence of the master and members of the crew has ceased to be of much importance in the majority of prize cases; they usually now know nothing of the real destination of the cargo they are transporting, and the more skillfully the dispatch of goods with an enemy destination is contrived the more effectually will it be concealed from those on board.

14. It may be doubted whether any belligerent Government would be ready to forego the right of capture of goods on their way to an enemy in every case where such destination was not disclosed in the ship's papers or the evidence of those on board the ship. The difficulty which United States naval officers found even as early as

1862 in complying with the old rule is illustrated by the quotation from Lord Lyons's note of April 22, 1863, in connection with the case of the *Magicienne*, one of the cases which is dealt with in the appendix to this note, in which he drew attention to the habit of the United States cruisers of seizing vessels on the chance that something might possibly be discovered ex post facto which would prevent the captors from being condemned to pay damages.

15. The contention advanced by the United States Government in paragraph 9 of their note, that the effect of this new procedure is to subject traders to risk of loss, delay, and expense so great and so burdensome as practically to destroy much of the export trade of the United States to neutral countries in Europe, is not borne out by the official statistics published in the United States, nor by the reports of the Department of Commerce. The first nine months of 1915 may be taken as a period when the war conditions must have been known to all those engaged in commerce in the United States of America, and when any injurious effects of the prize-court procedure would have been recognized. During that period the exports from the United States of America to the three Scandinavian countries and Holland, the group of neutral countries whose imports have been most affected by the naval operations of the allies and by the procedure adopted in their prize courts, amounted to $274,037,000 as compared with $126,763,000 in the corresponding period of 1913. It is useless to take into account the corresponding figures of 1914 because of the dislocation of trade caused by the outbreak of the war, but taking the prewar months of 1914, the figures for 1913, 1914, and 1915 were as follows:

1913	$97,480,000
1914	88,132,000
1915	234,960,000

16. In the face of such figures it seems impossible to accept the contention that the new prize-court procedure in Great Britain has practically destroyed much of the export trade of the United States to neutral countries in Europe, and the inference is suggested that if complaints have been made to the administration of Washington by would-be exporters, they emanated not from persons who desired to engage in genuine commerce with the neutral countries, but from those who desired to dispatch goods to the enery under cover of a neutral destination, and who found it more difficult to conceal the real facts from the prize courts under the new procedure.

17. At this point it would have been opportune to introduce a reply to the contention that appears at first sight to be advanced in paragraph 13 of the United States note to Great Britain, while interfering with foreign trade, has increased her own with neutral countries adjacent to Germany, but this is rendered unnecessary by the explanation given by Mr. Page at the time that he presented the note, and since confirmed by a statement given out to the press at Washington, that no such meaning is to be attributed to the paragraph. Moreover, the subject has been dealt with in the note which Sir E. Grey sent to Mr. Page on the 13th August, last, and again in the note given to the State Department by the British ambassador at Washington on the 27th December.

18. The next passage in the United States note (par. 14) relates to the principle of noninterference with goods intended to become

incorporated in the mass of merchandise for sale in a neutral country, or, as it is more commonly known, with goods intended to be incorporated in the "common stock" of the country. The United States Government urge with some force that trade statistics are not by themselves conclusive in establishing an enemy destination, and that such statistics require careful scrutiny. On the other hand, the mere fact that goods, no matter of what description or in what quantities, are ostensibly destined to form part of the common stock of a neutral country, can not be regarded as sufficient evidence to prove their innocence or to justify the assertion that any attempt to raise questions as to their ulterior destination is unwarranted and inquisitorial. It is a matter of common knowledge that large quantities of supplies have, since the war broke out, passed to our enemy through neutral ports. It was pointed out in Sir E. Grey's note of the 17th July, 1915, that it would be mere affectation to regard some of those ports as offering facilities only for the commerce of the neutral country in which they are situated. They have, in fact, been the main avenues through which supplies have reached the enemy from all parts of the world. In the case of goods consigned to these ports, the ships' papers convey no suggestion as to their ultimate destination, and every device which ingenuity can suggest, or which can be contrived by able and unscrupulous agents, is resorted to for the purpose of giving to carefully organized arrangements for supplying the enemy the appearance of genuine transactions with a neutral country. His Majesty's Government can not bring themselves to believe that it is the desire of the United States Government that traffic of this kind should be allowed to proceed without hindrance.

19. The question whether goods dispatched to a neutral port were intended to become part of the mass of mechandise for sale in that country is one of fact. Quite apart from the conclusions suggested by the figures, there is a considerable body of evidence that many of the goods which have been shipped to neutral ports during the war were never intended to become part of the common stock of that country, but were earmarked from the beginning for reexport to the enemy country. If they had been intended to form part of the common stock, they would have been available for use in that country; yet at one time in the early days of the allies' efforts to intercept all the commerce of the enemy, when they found it necessary to hold up certain cargoes of cotton on their way to Sweden, it transpired that though the quays and the warehouses of Gothenburg were congested with cotton, there was none available for the use of the spinners in Sweden.

20. Confirmation of the fact that many of the shipments to neutral ports were never intended to become part of the common stock of the country is also to be found in some of the contracts which have come to light since the policy of intercepting all commodities on their way to or from the enemy country was introduced. One of those which has been disclosed is a contract with a firm in Germany for the sale of no less than 50,000 bales of cotton linters at a price which was about double that which linters were fetching in any other country than Germany. The whole quantity was to be shipped to neutral ports. Various shipments made under this contract have been held up, and in all cases the goods were shipped with papers and under

conditions which concealed the enemy destination altogether. Sweden is not in normal times a large importer of cotton linters, and it certainly would not be reasonable to maintain that, because the ship's papers did not disclose this contract of sale or the enemy destination, shipments of linters under this contract should be regarded as intended to become part of the mass of merchandise for sale in Sweden.

21. However sound the principle that goods intended for incorporation in the common stock of a neutral country should not be treated as contraband may be in theory, it is one that can have but little application to the present imports of the Scandinavian countries. The circumstances of a large number of these shipments negative any conclusion that they are bona fide shipments for the importing countries. Many of them are made to persons who are apparently nominees of enemy agents, and who never figured before as importers of such articles. Consignments of meat products are addressed to lightermen and dock laborers. Several thousands of tons of such goods have been found documented for a neutral port and addressed to firms which do not exist there. Large consignments of similar goods were addressed to a baker, to the keeper of a small private hotel, or to a maker of musical instruments. Will it be contended that such imports ought to be regarded as bona fide shipments intended to become part of the common stock of the country?

22. Similarly several of the shipments which the allied naval forces are now obliged to intercept consist of goods for which there is in normal circumstances no sale in the importing country, and it has already been pointed out in a recent decision in the British prize court that the rule about incorporation in the common stock of a neutral country can not apply to such goods. The same line was taken in some of the decisions in the United States prize courts during the Civil War.

23. In the presence of facts such as those indicated above, the United States Government will, it is believed, agree with His Majesty's Government that no belligerent could in modern times submit to be bound by a rule that no goods could be seized unless they were accompanied by papers which established their destination to an enemy country, and that all detentions of ships and goods must uniformly be based on proofs obtained at the time of seizure. To press any such theory is tantamount to asking that all trade between neutral ports shall be free, and would thus render nugatory the exercise of sea power and destroy the pressure which the command of the sea enables the allies to impose upon their enemy.

24. It is, of course, inevitable that the exercise of belligerent rights at sea, however reasonably exercised, must inconvenience neutral trade, and great pressure is being put upon the United States Government to urge the technical theory that there should be no interference at all with goods passing between neutral ports, and thus to frustrate the measures which the allies have taken to intercept commerce on its way to or from the enemy. It may not be out of place to recall that the position is somewhat similar to that which arose in the United States in the war between the North and the South. All students of international law and of military history are aware that the blockade of the Southern States was the most important engine of pressure possessed by the North, and that it was on the point of being rendered effective through the use by blockade runners of

neutral ports of access. It is well known that the United States Government took immediate steps to stop such trade, and that the United States Supreme Court extended the doctrine of continuous voyage so as to cover all cases where there was an intention to break the blockade by whatever means, direct or indirect.

25. The configuration of the European coast is such as to render neutral ports the most convenient for the passage of German commerce, and just as it was essential to the United States in the Civil War to prevent their blockade from being nullified by the use of neutral ports of access, so it is essential to the allied powers to-day to see that the measures which they are taking to intercept enemy commerce shall not be rendered illusory by the use of similar ports. The instructions issued by Mr. Seward during the Civil War show that he regarded the continuance of the blockade against the Southern States as absolutely vital, and he repeatedly instructed American representatives abroad to assure foreign Governments that, while he was fully alive to the great inconveniences caused by the cutting off of the supplies of cotton from Europe, yet he could not, as American Secretary of State, "sacrifice the Union for cotton." The American representatives in Europe in their published reports again and again expressed the opinion that, whatever might be the policy of the Government, the peoples of Europe would never consent to side with the power that upheld slavery against the power which represented freedom. Their opinion was entirely justified by the result, and in fact neither the French nor the English Governments took any decided steps toward breaking the blockade, in spite of the tremendous pressure which was brought to bear upon them and the terrible suffering of the cotton operatives of this country. Indeed, President Lincoln himself acknowledged, in a message to the laboring classes of Manchester, his high sense of the spirit of self-sacrifice which they had exhibited in their policy toward America. His Majesty's Government have, of course, no desire to enter upon any examination of the issues involved in that historic conflict, but no one will question the respect which is due to the determination then shown by the French and British peoples not to range themselves on what they believed to be the side of slavery or consent to action which they held might be fatal to the democratic principle of government, however great the pressure exerted by commercial interests might be.

26. His Majesty's Government desire to assure the United States Government that every effort is being made to distinguish between bona fide neutral commerce and that which is really intended for the enemy.

The task is one of exceptional difficulty, and the statistics show that a great volume of imports intended for the enemy must have passed through adjacent neutral countries during the war. As an instance, the imports of lard into Sweden during the year 1915 may be taken. In that year the total import of lard into Sweden from all sources was 9,318 tons, of which no less than 9,029 tons came from the United States. In the three years before the war, 1911–1913, the annual average import of the same article was only 888, of which 638 tons came from the United States. It is difficult to believe that the requirements of Sweden in respect of lard, even when every allowance is made for possible diversions of trade due to the war, could suddenly have increased more than tenfold in 1915. The inference,

indeed, is irresistible that the greater part of these imports must have had another and an enemy destination.

27. It may readily be conceded that the efforts to intercept enemy commerce passing through neutral countries can not fail to produce some soreness and dissatisfaction. His Majesty's Government have therefore spared no pains in their endeavor to mitigate the inconvenience which must inevitably be occasioned to neutral traders. In pursuance of this object they are resorting to the policy of ascertaining the total requirements of the country concerned, and intercepting such imports as may be presumed, because they are in excess of those requirements, to form no part of the normal trade of the country, and therefore to be destined for the enemy.

28. The total net imports of a particular commodity by any country in normal times gives a satisfactory index to its requirements, and where these are provided for on a generous scale, suitable allowance being made for the commercial dislocation inseparable from a state of war, it is not unfair, after 18 months of war and in the light of the experience which has now been gained, to invite the prize court to regard with suspicion further consignments of any kind of goods of which the imports have already exceeded a figure ample to satisfy the country's requirements.

29. It ought not to be difficult to arrive at a satisfactory understanding with all parties on the subject, as the official statistics afford information not only as to the quantities of particular commodities required by neutral countries, but also of the sources from which they are usually obtained. Arrangements of this nature will be of great service in removing the friction and misunderstanding which now arise, as it will help the commercial classes in the neutral countries to form an idea of the limits within which their trading operations are not likely to encounter difficulty.

30. The adoption of such a system, although not unattended by difficulty, has been greatly facilitated by agreements made with the organizations which control imports in the neutral countries, as well as by arrangements with some of the shipping lines, and with several of the interests concerned in the import of particular commodities from neutral countries. His Majesty's Government intend to avail themselves of every opportunity which may present itself in order to bring about a more extended adoption of this equitable system.

31. Moreover, the fact that a neutral country adjacent to the enemy territory is importing an abnormal quantity of supplies or commodities, of which her usual imports are relatively small, of which the enemy stands in need, and which are known to pass from that neutral country to the enemy, is by itself an element of proof on which the prize court would be justified in acting, unless it is rebutted by evidence to the contrary. Hostile destination being a question of fact, the court should take all the relevant circumstances into consideration in arriving at its decision, and there seems to be no reason in principle for limiting the facts at which the court is entitled to look in a case of this kind.

32. The second section of the United States note (paragraph 16–24) deals with the validity of the measures against enemy commerce which were embodied in the British Order in Council of March 11, 1915, and in the French decree of March 13, and maintains that these measures are invalid because they do not comply

with the rules which have been gradually evolved in the past for regulating a blockade of enemy ports, and which were summarized in concrete form in articles 1–21 of the Declaration of London.

33. These rules can only be applied to their full extent to a blockade in the sense of the term as used in the Declaration of London. His Majesty's Government have already pointed out that a blockade which was limited to the direct traffic with enemy ports would in this case have but little, if any, effect on enemy commerce, Germany being so placed geographically that her imports and exports can pass through neutral ports of access as easily as through her own. However, with the spirit of the rules His Majesty's Government and their allies have loyally complied in the measures they have taken to intercept German imports and exports. Due notice has been given by the allies of the measures they have taken, and goods which were shipped or contracted for before the announcement of the intention of the allies to detain all commerce on its way to or from the enemy countries have been treated with great liberality. The objects with which the usual declaration and notification of blockade are issued have therefore been fully achieved. Again, the effectiveness of the work of the allied fleets under the orders referred to is shown by the small number of vessels which escape the allied patrols. It is doubtful whether there has ever been a blockade where the ships which slipped through bore so small a proportion to those which were intercepted.

34. The measures taken by the allies are aimed at preventing commodities of any kind from reaching or leaving Germany, and not merely at preventing ships from reaching or leaving German ports. His Majesty's Government do not feel, therefore, that the rules set out in the United States note need be discussed in detail. The basis and the justification of the measures which the allies have taken were dealt with at length in Sir E. Grey's note of July 23, and there is no need to repeat what was there said. It need only be added that the rules applicable to a blockade of enemy ports are strictly followed by the allies in cases where they apply, as for instance, in the blockades which have been declared of the Turkish coast of Asia Minor or of the coast line of German East Africa.

35. Some further comment is perhaps necessary upon the statements made in paragraph 19 of the United States note, where it is said that because German coasts are open to trade with Scandinavian countries the measures of the allies fail to comply with the rule that a blockade must be effective. It is no doubt true that commerce from Sweden and Norway reaches German ports in the Baltic in the same way that commerce still passes to and from Germany across the land frontiers of adjacent States, but this fact does not render the measures which France and Great Britain are taking against German trade the less justifiable. Even if these measures were judged with strict reference to the rules applicable to blockades, a standard by which, in their view, the measures of the allies ought not to be judged, it must be remembered that the passage of commerce to a blockaded area across a land frontier or across an inland sea has never been held to interfere with the effectiveness of the blockade. If the right to intercept commerce on its way to or from a belligerent country, even though it may enter that country through a neutral port, be granted, it is difficult to see why the interposition

of a few miles of sea as well should make any difference. If the doctrine of continuous voyage may rightly be applied to goods going to Germany through Rotterdam, on what ground can it be contended that it is not equally applicable to goods with a similar destination passing through some Swedish port and across the Baltic or even through neutral waters only? In any case, it must be remembered that the number of ships reaching a blockaded area is not the only test as to whether it is maintained effectively. The best proof of the thoroughness of a blockade is to be found in its results. This is the test which Mr. Seward, in 1863, when Secretary of State, maintained should be applied to the blockade of the Confederate States. Writing to Mr. Dayton, the United States minister in Paris, on the 8th of March, he said: "But the true test of the efficiency of the blockade will be found in its results. Cotton commands a price in Manchester and in Rouen and Lowell four times greater than in New Orleans. * * * Judged by this test of results, I am satisfied that there never was a more effective blockade." Similar language was used in the dispatch to Mr. Adams in London. The great rise in price in Germany of many articles most necessary to the enemy in the prosecution of the present war must be well known to the United States Government.

36. Attention is drawn in the same paragraph to the fact that cotton has since the measures announced on the 11th of March been declared to be contraband, and this is quoted as an admission that the blockade is ineffective to prevent shipments of cotton from reaching the enemy countries. The reason for which cotton was declared to be contraband is quite simple. Goods with an enemy destination are not, under the order in council, subject to condemnation; they are restored to the owner. Evidence accumulated that it was only for military purposes that cotton was being employed in Germany. All cotton was laid under embargo, and its use in the textile factories was prohibited except in very special cases or by military permission. In these circumstances it was right and proper that cotton with an enemy destination should be subjected to condemnation and not merely prevented from passing, and it was for this reason that it was declared to be contraband. The amount of cotton reaching the enemy country has probably not been affected in the least by its being made contraband on the 20th of August as supplies from overseas had been cut off effectually before that date. Even the Konfektionär, a German technical paper, dealing with the textile industry, admitted in its issue of the 1st of July that not a gram of cotton had found its way into Germany for the preceding four weeks.

37. Before leaving the question of the validity of the measures which France and Great Britain have taken against enemy commerce, reference must be made to the statement made in the thirty-third paragraph of the United States note that "the curtailment of neutral rights by these measures, which are admittedly retaliatory, and therefore, illegal," can not be admitted. His Majesty's Government are quite unable to admit the principle that to the extent that these measures are retaliatory they are illegal. It is true that these measures were occasioned and necessitated by the illegal and unjustifiable proclamation issued by the German Government on the 4th of February, 1915, constituting the waters surrounding Great

Britain, including the whole English Channel, a "war zone," into which neutral vessels would penetrate at their peril, and in which they were liable to be sunk at sight. This proclamation was accompanied by a memorandum alleging that the violation of international law by Great Britain justified the retaliatary measures of the German Government owing to the acquiescence of neutrals in the action of this country. The legitimacy of the use of retaliatory measures was thus admitted by the Germans, although His Majesty's Government and their allies strongly deny the facts upon which their arguments were based. But although these measures may have been provoked by the illegal conduct of the enemy, they do not in reality conflict with any general principle of international law, of humanity, or civilization; they are enforced with consideration against neutral countries, and are therefore juridically sound and valid.

38. The more abstract question of the legitimacy of measures of retaliation adopted by one belligerent against his opponent, but affecting neutrals also, is one of which His Majesty's Government think the discussion might well be deferred. It is a subject of considerable difficulty and complexity, but His Majesty's Government are surprised to notice that the Government of the States seem to regard all such measures of retaliation in war as illegal if they should incidentally inflict injury upon neutrals. The advantage which any such principle would give to the determined lawbreaker would be so great that His Majesty's Government can not conceive that it would commend itself to the conscience of mankind. To take a simple instance, suppose that one belligerent scatters mines on the trade routes so as to impede or destroy the commerce of his enemy—an action which is illegitimate and calculated to inflict injury upon neutrals as well as upon the other belligerents—what is that belligerent to do? Is he precluded from meeting in any way this lawless attack upon him by his enemy? His Majesty's Government can not think that he is not entitled by way of retaliation to scatter mines in his turn, even though in so doing he also interferes with neutral rights. Or take an even more extreme case: Suppose that a neutral failed to prevent his territory being made use of by one of the belligerents for warlike purposes, could he object to the other belligerent acting in the same way? It would seem that the true view must be that each belligerent is entitled to insist on being allowed to meet his enemy on terms of equal liberty of action. If one of them is allowed to make an attack upon the other regardless of neutral rights, his opponent must be allowed similar latitude in prosecuting the struggle, nor should he in that case be limited to the adoption of measures precisely identical with those of his opponent.

39. The third section of the United States note deals with the question of the means of redress which are open to United States citizens for any injury or loss which they suffer as the consequence of an unjustifiable exercise of the belligerent rights of the allies. The contention put forward in these paragraphs appears to be that there is no obligation on neutral individuals who maintain that they have been damnified by the naval operations of the belligerents to appeal to the prize courts for redress, because the prize courts are fettered by municipal enactments which are binding upon them,

whereas the very question which those individuals wish to raise is the validity of such enactments when tested by the canons of international law.

40. These arguments seem to be founded on a misunderstanding of the situation and to overlook all that was said in Sir E. Grey's note of the 23d of July on this subject. The extract there quoted from the decisions given by Lord Stowell shows that in Great Britain the prize court has jurisdiction to pronounce a decision on the very point which the United States note indicates, viz: Whether an order or instruction to the naval forces issued by His Majesty's Government is inconsistent with those principles of international law which the court is bound to apply in deciding cases between captors and claimants and is entitled, if satisfied that the order is not consistent with those principles, to decline to enforce it. The jurisdiction of the prize court in Great Britain therefore affords every facility to a United States citizen whose goods are detained and dealt with under the order in council of the 11th of March to take his case to the prize court and there claim that the order under which the naval authorities have acted is invalid and that its enforcement entitles him to redress and compensation.

41. In some matters it is true that the prize court is bound by the municipal enactments of its own country. It is the territorial sovereign who sets up the court and who therefore determines the matters which are incidental to its establishment. His Majesty's Government have already pointed out that each country determines for itself the procedure which its prize courts shall adopt; but certainly under the British system—and His Majesty's Government were under the impression that in this matter the United States had taken the same course—the substantive law which the court applies as between captor and claimant consists of the rules and principles of international law, and not the municipal legislation of the country. If reference is made to the case of the *Recovery* (6 C. Rob., 341), it will be seen that Lord Stowall refused to enforce in the prize court against a neutral the British navigation laws.

42. Sir E. Grey's note of the 23d of July was intended to make this point clear, and so far from having intended to "give the impression that His Majesty's Government do not rely upon its soundness or strength," His Majesty's Government wish to lay stress on the fact that the principle that no encroachment should be made upon the jurisdiction and the competence of the prize court is one which they regard as vital.

43. Apart from the cases where a question may arise as to the validity of orders or instructions on which naval action was based, circumstances frequently give rise to claims for compensation on behalf of individuals who consider they have suffered unjustly from the exercise of rights jure belli, as, for instance, from the delay in releasing their ships, or so forth. His Majesty's Government desire, therefore, to repeat what was said in Sir E. Grey's note of the 10th of February, that the British prize court rules give the court ample jurisdiction to deal with any claims for compensation by a neutral arising from the interference with a ship or goods by the naval forces.

44. His Majesty's Government attach the utmost importance to the maintenance of the rule that when an effective mode of redress is open to individuals in the courts of a civilized country by which they

can obtain adequate satisfaction for any invasion of their rights recourse must be had to the mode of redress so provided before there is any scope for diplomatic action. This is the course which His Majesty's Government have always themselves endeavored to follow in previous wars in which Great Britain has been neutral, and they have done so because it is the only principle which is correct in theory and which operates with justice and impartiality between the more powerful and the weaker nations. To that principle His Majesty's Government proposes to adhere now that they are themselves the belligerent and that it is against them that the claims are advanced.

45. Inquiry has been made into the four cases of the *Magicienne*, the *Don José*, the *Labuan*, and the *Saxon*, mentioned in the United States note (paragraph 27) as instances during the American Civil War where His Majesty's Government put forward, through the diplomatic channel, claims for damages for seizure and detention of British ships alleged to have been made without legal justification. In two of these instances it is said at the time the demands were made the cases were before the American prize courts for adjudication. The results of the inquiry are contained in an appendix to this note. The cases have there been dealt with in some detail because they are cited as indicating that it was the practice of Her Majesty's Government during the American Civil War to claim, through the diplomatic channel, damages for seizures of British ships alleged to have been made without legal justification. The cases do, in fact, establish the very proposition for which His Majesty's Government are now contending, viz: That in the cases where the prize court has power to grant relief there is no ground for putting forward claims through the diplomatic channel. In two of the cases the United States Government themselves discontinued the prize court proceedings and admitted the right to compensation, and in the others they maintained the jurisdiction of the prize court, and His Majesty's Government acquiesced.

46. The statements contained in paragraph 31 of the United States note have led to a careful review of the practice which is now followed in the British courts with regard to vessels and cargoes which are released. It has been ascertained that in the case of vessels brought in for examination and allowed to proceed without discharging any part of their cargo no dues are charged. Where part of the cargo is discharged and passes into the jurisdiction of the prize court, the terms of the release are, of course, subject to the control of the court, and His Majesty's Government are therefore hardly in a position to give any definite undertaking with regard to the incidence of the expenses and charges which may have been incurred. In general, however, they realize that, in cases where goods are released and it transpires that there were no sufficient grounds for their seizure, no dues or charges should fall upon the owner. The statement that waivers of the right to put forward claims for compensation are exacted as a condition of release is scarcely accurate, but they are prepared to concede that such waivers would be a hardship to the owners of the goods released. In these circumstances His Majesty's Government will abstain from exacting any such undertakings in future, and will not enforce those which have already been given.

47. Attached to the United States note are voluminous appendices containing lists of various vessels of all nationalities whose cargoes have been examined by the naval forces of the allies. These lists are a strong testimony to the vigor and effectiveness with which the naval forces are carrying out the measures which the allies have deemed it necessary to take against the commerce of their enemies. Perhaps the most striking conclusion which can be drawn from these lists is the rapidity with which the vessels are released and the very small amount of loss and inconvenience to which they are, as a rule, exposed.

48. Into the facts of each particular case His Majesty's Government feel sure the Government of the United States will agree that there is no need for them to enter, for the lists comprise only ships dealt with by the British authorities; no corresponding lists are given of those dealt with by the French forces, and a detailed examination of these cases would be of no assistance in explaining the general principles which are being followed and which are common to both the allies. Furthermore, any discussion of the cases in this note might prejudice the chances of the claimants of recovering compensation through the prize court in cases where they consider that they are entitled to redress.

49. Finally His Majesty's Government desire to assure the United States Government that they will continue their efforts to make the exercise of what they conceive to be their belligerent rights as little burdensome to neutrals as possible. Some suggestions have already been referred to in this note which, it is believed, would have that effect, and they are quite ready to consider others. For instance, they have already appointed an impartial and influential commission to examine whether any further steps could be taken to minimize the delays involved in the present methods of dealing with neutral vessels. Again, it has been suggested that it would be a great commercial convenience if neutral shippers knew, before they made arrangements for ship space and for financing their consignments, whether they would be held up by belligerent patrols. A scheme is already in operation which ought to succeed in accomplishing this object. Other suggestions of a like nature might perhaps be made, and the allied Governments would be prepared to give favorable consideration to any proposal for the alleviation of the position of neutrals, provided that the substantial effectiveness of the measure now in force against enemy commerce would not be thereby impaired.

50. His Majesty's Government are of opinion that it is to such mitigations that the allies and the neutrals concerned should look for the removal of the difficulties now encountered rather than to abrupt changes either in the theory or application of a policy based upon admitted principles of international law carefully adjusted to the altered conditions of modern warfare. Some of the changes which have been advocated, would, indeed, if adopted in their entirety, render it impossible for the allies to persist with effect in their endeavors to deprive the enemy of the resources upon which he depends for the prosecution of operations carried on both by land and sea with complete disregard of the claims of humanity; for instance, the practice of visiting exclusively at sea, instead of in port, vessels reasonably suspected of carrying supplies to the enemy, or, again, the adoption of the principle that goods notoriously destined for the

enemy may not be intercepted if they happen to be carried by a neutral vessel and addressed to a neutral consignee could not fail to have this result.

51. His Majesty's Government have noted with sincere satisfaction the intimation contained in the concluding passages of the United States note of the intention of the United States to undertake the task of championing the integrity of neutral rights. The first act of this war was the unprovoked invasion by the enemy of neutral territory—that of Belgium—which he was solemnly pledged by treaty to protect. The occupation of this territory was accompanied by abominable acts of cruelty and oppression in violation of all the accepted rules of war, atrocities the record of which is available in published documents; the disergard of neutral rights has since been extended to naval warfare by the wanton destruction of neutral merchant ships on the high seas, regardless of the lives of those on board. In every theater and in each phase of the war has been visible the same shocking disregard by the enemy of the rights of innocent persons and neutral peoples. His Majesty's Government would welcome any combination of neutral nations, under the lead of the United States, which would exert an effective influence to prevent the violation of neutral rights, and they can not believe that they or their allies have much to fear from any combination for the protection of those rights which takes an impartial and comprehensive view of the conduct of this war and judges it by a reasonable interpretation of the generally accepted provisions of international law and by the rules of humanity that have hitherto been approved by the civilized world.

APPENDIX.

CASES OF THE "MAGICIENNE," THE "DON JOSÉ," THE "LABUAN," AND THE "SAXON."

1. The *Magicienne* was captured on the 27th of January, 1863, about 400 miles from the Cape Verde Islands, while on a voyage to Matamoras. She was taken to Key West and released on March 2, the district attorney of the United States stating that he could see nothing in the depositions, invoices, and other papers on which to base a demand for condemnation or even for a certificate of probable cause of seizure. On April 3 Lord Lyons was instructed to ask for compensation, and did so in a note to Mr. Seward, dated April 22. In reply, Mr. Seward admitted that compensation ought to be made. The course of procedure suggested by Mr. Seward was adopted, and ultimately the compensation was fixed at $8,645. No suggestion was made that any other mode of redress was open to the injured party or that it was not a case where compensation should be asked for through the diplomatic channel. On the contrary, the admission that the seizure was illegal was made by the United States, and Mr. Seward himself admitted that compensation should be made.

2. The *Don José* was a small British schooner of 35 tons, which was captured on July 2, 1863, off Cuba, when on a voyage to Habana. She was released on July 15 because the district attorney was unable, on examination of the ship's papers and of the depositions of the

witnesses, to find any grounds on which to file a libel against the vessel. On January 2, 1864, Lord Lyons wrote a note to Mr. Seward, pointing out that the seizure appeared to have been one of a very unjustifiable character, and saying that he hoped that the United States Government would have no difficulty in admitting that compensation was due. Mr. Seward, in his reply, admitted that the case seemed to be a strong one. On May 18 Lord Lyons again pressed for compensation, and based his claim upon the ground that the United States law officer could find no ground for bringing the case before the prize court, and that it must be presumed that the court, if the case had come before it, would, in the execution of its duty, have awarded costs and damages. Mr. Seward promised to give the matter attentive consideration. He does not appear to have suggested that the claimant could himself have applied to the prize court for compensation, or to have challenged the point urged by Lord Lyons that it was the failure of the United States authorities to bring the case before the prize court which deprived the court of the opportunity of awarding redress.

3. The case of the *Labuan* gave rise to a voluminous diplomatic correspondence. She was a British steamer which was seized by the United States steamer *Portsmouth* on February 1, 1862, when lying off the mouth of the Rio Grande within the limits of the port of Matamoros and probably therefore within the territorial waters of Mexico. She had landed a cargo of British goods and was loading a cargo of cotton and other articles. Copies of the reports which Lord Lyons had received as to this case were given to Mr. Seward privately with a suggestion that the United States Government might perhaps think it advisable to release the vessel and give her compensation without subjecting the vessel to judicial proceedings. In another unofficial communication Mr. Seward admitted that a perusal of the information in the Navy Department had not satisfied him that the capture was legal, but preferred that nothing should be done until a judicial decision had been given. The official correspondence that ensued dealt mainly in its earlier stages with the contention urged by Her Majesty's Government that unless the United States Government were going to maintain that the capture was justifiable and valid, it was unreasonable to expose the parties interested to the delay and the expense of judicial proceedings. The United States Government, however, insisted that the case must take its course in the prize court, and in the circumstances Her Majesty's Government could only acquiesce. The trial took place on May 20 in the district court at New York, when the immediate release of vessel and cargo was ordered and the question of damages against the captors reserved for consideration. The subsequent official correspondence was occupied chiefly with the delays in getting the damages assessed. As early as April 9, 1863, Mr. Seward wrote to Lord Lyons a note reviewing the whole correspondence, in which he said, "I freely admit that I believe the claimants entitled to damages and costs," but he maintained that it was regular and legal to wait for the court to decree them, and that the court would decide the question with more exact justice than could the executive Government. The period which elapsed before the prize court dealt with the damages payable certainly justified the complaints which Lord Lyons was instructed to make, for the decree

awarding $141,902 was not issued until March, 1868, more than six years after the capture, nor was the sum paid until a further period of over two years had elapsed.

4. The case of the *Saxon* also gave rise to a voluminous diplomatic correspondence, but I am at a loss to know what ground there can be for citing the action of Her Majesty's Government in this case as a precedent for maintaining the right of a Government to ignore the prize court and to claim compensation through the diplomatic channel. The *Saxon* was seized on October 29, 1863, by the U. S. S. *Vanderbilt* while lying at anchor off Penguin Island, on the coast of South Africa. Some confusion occurred at the time of capture, and the mate of the *Saxon* was shot dead by an officer of the *Vanderbilt*. The vessel was sent to New York and arrived there on December 22. Some doubt seems to have arisen as to why the vessel had been captured, and Lord Lyons was instructed by Lord Russel early in 1864 to ask the United States Government either to direct the immediate release of the *Saxon*, with proper compensation to the owners, or at least to explain the ground on which her seizure and detention were supposed to be justified. Meanwhile further information had come into the possession of Her Majesty's Government, and on February 15 Lord Lyons was instructed, on the advice of the law officers of the Crown, that Her Majesty's Government saw no ground for seeking to withdraw the case from the jurisdiction of the prize court. On March 7 Judge Bettes, in the district court at New York, decreed the restitution of the vessel and cargo free of all costs, charges, and expenses, reserving for future consideration the question of probable cause of seizure. Lord Lyons was subsequently informed that Her Majesty's Government saw no reason to complain of this sentence. They understood the question of damages still to be open, but they were not prepared to say that if these should be refused there would, in the peculiar circumstances of the case, be any necessity for an official complaint on their part. The only suggestion which Her Majesty's Government made through the diplomatic channel as to payment of compensation was a request that some relief might be granted to the widow of the mate of the *Saxon* who was shot by an officer of the *Vanderbilt*, but the request was refused with asperity.

On the 10th of May our Government addressed a communication to England to inquire whether it had decided "to repudiate their promise respecting the treatment of these vessels which in good faith has been relied on by this Government."

THE SECRETARY OF STATE TO THE BRITISH AMBASSADOR.

DEPARTMENT OF STATE,
Washington, May 10, 1916.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of April 22, 1916, in which you refer to the fact that your Government in December last promised not to detain certain vessels belonging to the American Transatlantic Co. unless they should carry contraband pending the decision of the British prize court in the cases of the steamer *Hocking* and the steamer *Genesee*, which also belong to this company, and in which you state

that Sir Edward Grey has instructed you to inform me that the vessels which have not been seized can no longer enjoy immunity from seizure unless certain assurances respecting their use are given by the company.

These vessels are owned by an American corporation organized under laws which presumably are similar to British laws respecting incorporation. In the name of this corporation these vessels were registered under the American flag in accordance with laws which, it is understood by this Government, are similar to British laws governing registration of vessels under the British flag. Under the laws of the United States the American Transatlantic Co. is regarded as a citizen of the United States and must doubtless be so regarded in accordance with the custom of nations.

British prize-court decisions in relation to the ownership of different kinds of property, including vessels, appear to make it clear that a British corporation is British in character regardless of what the political nationality of its shareholders may be.

This Government has observed that in a recent case a British prize court, applying an apparently well-established rule, condemned a vessel flying the German flag and refused an application of neutral claimants to establish that they were the beneficial owners of the vessel, owning the entire capital stock of the nominal owners, a subsidiary concern established according to the laws of Germany. The court ruled that the fact sought to be proved would not benefit the claimants.

This Government has also observed that the British authorities have in several instances requisitioned vessels flying the British flag, although the entire beneficial interest in them was owned by American citizens, and in connection with requests on the part of such beneficial owners for the release of such vessels the British Government apparently has taken the position that the vessels, flying the British flag and being owned by British corporations, must, of course, be regarded as British and not as American vessels.

It appears, therefore, from different cases of the character just mentioned that the British judicial and administrative authorities have, as a rule, attached no importance to beneficial ownership in determining the nationality of the vessels owned by corporate organizations, but have uniformly proceeded on the theory that nationality in each case must be determined by the flag the vessels fly or by their corporate ownership.

On the other hand, the British authorities in now seeking to condemn the ships of the American Transatlantic Co., which are owned by an American corporation and fly the American flag, on the ground, as they state, that they believe these vessels to be entirely, or to a large extent, enemy owned, apparently attach great importance to beneficial ownership and no importance to the flag or corporate ownership.

In this relation it should be observed that the company has presented to this Government evidence to show that all the company's stock is owned by American citizens. This Government has no information that the stock is not so owned.

Having in mind these and other facts as well as the applicable principles of international law, the seizure of these vessels appeared to this Government arbitrary and unwarranted. However, after

having informed the British Government to that effect, this Government decided to let the matter rest after receiving from the British Government a promise that they were, in the language of a note addressed by Sir Edward Grey to the American ambassador at London, "willing not to capture the remaining ships of the company, unless they were found to be carrying contraband, until the prize court has given a decision in the cases which are now pending, provided, of course, that the proceedings in court are not unduly prolonged by the defendants." The owners of the vessels have informed the department that they have complied strictly with the British Government's conditions, and the department has no information to the contrary.

If any one of these vessels should carry contraband, the British Government would be warranted in exercising their belligerent right to detain such vessel. But the carrying of contraband by one of these vessels would, of course, furnish no legal justification for interference with other vessels carrying innocent cargoes, and the observance by the British Government of the express language of their promise respecting the immunity of these vessels would prevent any such interference.

I observe from your note that you have been instructed by Sir Edward Grey to inform me that "the immunity from capture at present enjoyed by the American Transatlantic Co.'s vessels can only be continued provided that an assurance is given by the company that the vessels will not trade with Scandinavia or Holland."

Under these circumstances, before giving further consideration to the matters referred to in your note I would like to be informed whether, as would appear from your note, it is the intention of the British Government to repudiate their promise respecting the treatment of these vessels which in good faith has been relied on by this Government and by the owners of these vessels.

I am, etc.,

ROBERT LANSING.

The real significance of these incursions upon the commercial rights of neutrals upon the "high seas" were greatly accentuated by the publication of the recommendations of the entente conference held in Paris in June, 1916, in the matter of trade after the war. These resolutions called forth adverse criticism from such men as Ambassador Francis, who declared there was no reason why better commercial relations should not exist between us and European commercial nations, speaking especially for the trade with Russia. Continuing, he said:

That end can not be accomplished, however, if the principles of resolutions of the economic conference of the allies at Paris last June are confirmed and carried out.

Those resolutions, while inspired by the desire to prevent a revival of economic supremacy, as it were, of the countries with which the allies are at war, are at the same time a discrimination against commerce with all neutral countries, many of which have been supplying the allies with requirements for a successful prosecution of the

war, and in so doing have provided much material without which the allies would not have been as successful as they have been.

The idea that America has experienced nothing but benefit from the war is a mistake, and the charge that America desires to see the war continue because of the profits she derives has so little foundation that it needs no explanation or defense.

On March 30 another order in council modifying the declaration of London in numerous details was promulgated. It was styled "The declaration of London order in council, 1916." On the 7th of July another order in council was announced, as follows:

AMBASSADOR W. H. PAGE TO THE SECRETARY OF STATE.

No. 4181.] AMERICAN EMBASSY,
London, July 10, 1916.

SIR: I have the honor to inclose herewith, for the information of the department, a copy, in duplicate, of the text of an order in council dated the 7th instant, which has been received from the foreign office, called "The maritime rights order in council, 1916," which effects a change in the rules hitherto adopted by the British Government to govern their conduct of warfare at sea during the present hostilities.

There is also transmitted herewith a copy, in duplicate, of a memorandum which has been drawn up by the British and French Governments explaining the grounds for the issue of the aforementioned order in council.

I have, etc., WALTER HINES PAGE.

[Inclosure 1.]

ORDER IN COUNCIL.

At the court at Buckingham Palace, the 7th day of July, 1916.

Present:

The Kings Most Excellent Majesty in council.

Whereas by an order in council dated the 20th day of August, 1914, His Majesty was pleased to declare that during the present hostilities the provisions of the declaration of London should, subject to certain additions and modifications therein specified, be adopted and put in force by His Majesty's Government;

And whereas the said declaration was adopted as aforementioned in common with His Majesty's allies;

And whereas it has been necessary for His Majesty and for his allies from time to time to issue further enactments modifying the application of the articles of the said declaration;

And whereas orders in council for this purpose have been issued by His Majesty on the 29th day of October, 1914, the 20th day of October, 1915, and the 30th day of March, 1916;

And whereas the issue of these successive orders in council may have given rise to some doubt as to the intention of His Majesty, as also as to that of his allies, to act in strict accordance with the law of nations, and it is therefore expedient to withdraw the said orders so far as they are now in force;

Now, therefore, His Majesty, by and with the advice of his privy council, is pleased to order, and it is hereby ordered, that the declaration of London order in council No. 2, 1914, and all orders subsequent thereto amending the said order are hereby withdrawn;

And His Majesty is pleased further to declare, by and with the advice of his privy council, and it is hereby declared, that it is and always has been his intention, as it is and has been that of his allies, to exercise their belligerent rights at sea in strict accordance with the law of nations;

And whereas on account of the changed conditions of commerce and the diversity of practice doubts might arise in certain matters as to the rules which His Majesty and his allies regard as being in conformity with the laws of nations, and it is expedient to deal with such matters specifically;

It is hereby ordered that the following provisions shall be observed:

(a) The hostile destination required for the condemnation of contraband articles shall be presumed to exist until the contrary is shown, if the goods are consigned to or for an enemy authority, or an agent of the enemy State, or to or for a person in territory belonging to or occupied by the enemy, or to or for a person who, during the present hostilities, has forwarded contraband goods to an enemy authority, or an agent of the enemy State, or to or for a person in territory belonging to or occupied by the enemy, or if the goods are consigned "to order," or if the ship's papers do not show who is the real consignee of the goods.

(b) The principle of continuous voyage or ultimate destination shall be applicable both in cases of contraband and of blockade.

(c) A neutral vessel carrying contraband, with papers indicating a neutral destination, which, notwithstanding the destination shown on the papers, proceeds to an enemy port, shall be liable to capture and condemnation if she is encountered before the end of her next voyage.

(d) A vessel carrying contraband shall be liable to capture and condemnation if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo.

And it is hereby further ordered as follows:

(i) Nothing herein shall be deemed to affect the order in council of the 11th March, 1915, for restricting further the commerce of the enemy or any of His Majesty's proclamations declaring articles to be contraband of war during the present hostilities.

(ii) Nothing herein shall affect the validity of anything done under the orders in council hereby withdrawn.

(iii) Any cause or proceeding commenced in any prize court before the making of this order may, if the court thinks just, be heard and decided under the provisions of the orders hereby withdrawn so far as they were in force at the date when such cause or proceeding was commenced, or would have been applicable in such cause or proceeding if this order had not been made.

This order may be cited as "The maritime rights order in council, 1916."

And the lords commissioners of His Majesty's treasury, the lords commissioners of the admiralty, and each of His Majesty's principal secretaries of state, the president of the probate, divorce, and admiralty division of the high court of justice, all other judges of His

Majesty's prize courts, and all governors, officers, and authorities whom it may concern are to give the necessary directions herein as to them may respectively appertain.

ALMERIC FITZROY.

[Inclosure 2.]

MEMORANDUM.

At the beginning of the present war the allied Governments, in their anxiety to regulate their conduct by the principles of the law of nations, believed that in the declaration of London they would find a suitable digest of principles and compendium of working rules. They accordingly decided to adopt the provisions of the declaration not as in itself possessing for them the force of law but because it seemed to present in its main lines a statement of the rights and the duties of belligerents based on the experience of previous naval wars. As the present struggle developed, acquiring a range and character beyond all previous conceptions, it became clear that the attempt made at London in time of peace to determine not only the principles of law but even the forms under which they were to be applied had not produced a wholly satisfactory result. As a matter of fact, these rules, while not in all respects improving the safeguards afforded to neutrals, do not provide belligerents with the most effective means of exercising their admitted rights.

As events progressed, the Germanic powers put forth all their ingenuity to relax the pressure tightening about them and to reopen a channel for supplies; their devices compromised innocent neutral commerce and involved it in suspicions of enemy agency. Moreover, the manifold developments of naval and military science, the invention of new engines of war, the concentration by the Germanic powers of the whole body of their resources on military ends, produced conditions altogether different from those prevailing in previous naval wars.

The rules laid down in the declaration of London could not stand the strain imposed by the test of rapidly changing conditions and tendencies which could not have been foreseen.

The allied Governments were forced to recognize the situation thus created, and to adapt the rules of the declaration from time to time to meet these changing conditions.

These successive modifications may perhaps have exposed the purpose of the allies to misconstruction; they have therefore come to the conclusion that they must confine themselves simply to applying the historic and admitted rules of the law of nations.

The allies solemnly and unreservedly declare that the action of their warships, no less than the judgments of their prize courts, will continue to conform to these principles; that they will faithfully fulfil their engagements, and in particular will observe the terms of all international conventions regarding the laws of war; that mindful of the dictates of humanity, they repudiate utterly all thought of threatening the lives of noncombatants; that they will not without cause interfere with neutral property; and that if they should, by the action of their fleets, cause damage to the interests of any merchant acting in good faith, they will always be ready to consider his claims and to grant him such redress as may be due.

FOREIGN OFFICE, *July 7, 1916.*

Our Government's first communication on the proposed "blacklist" policy was made on July 19. After several communications on the subject the Government dispatched the following note, giving our position on the matter in controversy:

THE ACTING SECRETARY OF STATE TO AMBASSADOR W. H. PAGE.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 26, 1916.

You are instructed to deliver to Sir Edward Grey a formal note on the subject of the enemy-trading act, textually as follows:

"The announcement that His Britannic Majesty's Government has placed the names of certain persons, firms, and corporations in the United States upon a proscriptive 'blacklist' and has forbidden all financial or commercial dealings between them and citizens of Great Britain, has been received with the most painful surprise by the people and Government of the United States, and seems to the Government of the United States to embody a policy of arbitrary interference with neutral trade against which it is its duty to protest in the most decided terms.

"The scope and effect of the policy are extraordinary. British steamship companies will not accept cargoes from the proscribed firms or persons or transport their goods to any port, and steamship lines under neutral ownership understand that if they accept freight from them they are likely to be denied coal at British ports and excluded from other privileges which they have usually enjoyed, and may themselves be put upon the blacklist. Neutral bankers refuse loans to those on the list and neutral merchants decline to contract for their goods, fearing a like proscription. It appears that British officials regard the prohibitions of the blacklist as applicable to domestic commercial transactions in foreign countries as well as in Great Britain and her dependencies, for Americans doing business in foreign countries have been put on notice that their dealings with blacklisted firms are to be regarded as subject to veto by the British Government. By the same principle Americans in the United States might be made subject to similar punitive action if they were found dealing with any of their own countrymen whose names had thus been listed.

"The harsh and even disastrous effects of this policy upon the trade of the United States and upon the neutral rights upon which it will not fail to insist are obvious. Upon the list of those proscribed and in effect shut out from the general commerce of the world may be found American concerns which are engaged in large commercial operations as importers of foreign products and materials and as distributors of American products and manufacturers to foreign countries and which constitute important channels through which American trade reaches the outside world. Their foreign affiliations may have been fostered for many years, and when once broken can not easily or promptly be reestablished. Other concerns may be put upon the list at any time and without notice. It is understood that additions to the proscription may be made 'whenever on account of enemy nationality or enemy association of such

persons or bodies of persons it appears to His Majesty expedient to do so.' The possibilities of undeserved injury to American citizens from such measures, arbitrarily taken, and of serious and incalculable interruptions of American trade are without limit.

"It has been stated on behalf of His Majesty's Government that these measures were aimed only at the enemies of Great Britain and would be adopted and enforced with strict regard to the rights of neutrals and with the least possible detriment to neutral trade, but it is evident that they are inevitably and essentially inconsistent with the rights of the citizens of all nations not involved in war. The Government of the United States begs to remind the Government of His Britannic Majesty that citizens of the United States are entirely within their rights in attempting to trade with the people of the Governments of any of the nations now at war, subject only to well-defined international practices and understandings which the Government of the United States deems the Government of Great Britain to have too lightly and too frequently disregarded. There are well-known remedies and penalties for breaches of blockade, where the blockade is real and in fact effective, for trade in contraband, for every unneutral act by whomsoever attempted. The Government of the United States can not consent to see those remedies and penalties altered or extended at the will of a single power or group of powers to the injury of its own citizens or in derogation of its own rights. Conspicuous among the principles which the civilized nations of the world have accepted for the safeguarding of the rights of neutrals is the just and honorable principle that neutrals may not be condemned nor their goods confiscated except upon fair adjudication and after an opportunity to be heard in prize courts or elsewhere. Such safeguards the blacklist brushes aside. It condemns without hearing, without notice, and in advance. It is manifestly out of the question that the Government of the United States should acquiesce in such methods of applications of punishment to its citizens.

"Whatever may be said with regard to the legality, in the view of international obligation, of the act of Parliament upon which the practice of the blacklist as now employed by His Majesty's Government is understood to be based, the Government of the United States is constrained to regard that practice as inconsistent with that true justice, sincere amity, and impartial fairness which should characterize the dealings of friendly governments with one another. The spirit of reciprocal trade between the United States and Great Britain, the privilege long accorded to the nationals of each to come and go with their ships and cargoes, to use each the other's shipping, and be served each by the other's merchants is very seriously impaired by arbitrary and sweeping practices such as this. There is no purpose or inclination on the part of the Government of the United States to shield American citizens or business houses in any way from the legitimate consequences of unneutral acts or practices; it is quite willing that they should suffer the appropriate penalties which international law and the usage of nations have sanctioned; but His Britannic Majesty's Government can not expect the Government of the United States to consent to see its citizens put upon an ex parte blacklist without calling the attention of His Majesty's Government, in the gravest terms, to the many serious consequences

to neutral rights and neutral relations which such an act must necessarily involve. It hopes and believes that His Majesty's Government, in its natural absorption in a single pressing object of policy, has acted without a full realization of the many undesired and undesirable results that might ensue."

POLK.

The clear indications of a purpose to ignore neutral rights by the controlling powers in the war in Europe induced the Congress at the close of the first session of the Sixty-fourth Congress to enact legislation to protect American rights. After many suggestions, some of which were very drastic, the revenue law of September 8, 1916, containing the following provisions, was adopted:

That whenever during the existence of a war in which the United States is not engaged the President shall be satisfied that there is reasonable ground to believe that under the laws, regulations, or practices of any country, colony, or dependency contrary to the law and practice of nations, the importations into their own or any other country, dependency, or colony of any article the product of the soil or industry of the United States and not injurious to health or morals is prevented or restricted, the President is authorized and empowered to prohibit or restrict during the period such prohibition or restriction is in force the importation into the United States of similar or other articles, products of such country, dependency, or colony as in his opinion the public interest may require; and in such case he shall make proclamation stating the article or articles which are prohibited from importation into the United States; and any person or persons who shall import, or attempt or conspire to import, or be concerned in importing, such article or articles into the United States contrary to the prohibition in such proclamation, shall be liable to a fine of not less than $2,000 nor more than $50,000, or to imprisonment not to exceed two years, or both, in the discretion of the court. The President may change, modify, revoke, or renew such proclamation in his discretion.

That whenever during the existence of a war in which the United States is not engaged the President shall be satisfied that there is reasonable ground to believe that any vessel, American or foreign, is, on account of the laws, regulations, or practices of a belligerent Government, making or giving any undue or unreasonable preference or advantage in any respect whatsoever to any particular person, company, firm, or corporation, or any particular description of traffic in the United States or its possessions, or to any citizen of the United States residing in neutral countries abroad, or is subjecting any particular person, company, firm, or corporation or any particular description of traffic in the United States or its possessions, or any citizens of the United States residing in neutral countries abroad to any undue or unreasonable prejudice, disadvantage, injury, or discrimination in regard to accepting, receiving, transporting, or delivering, or refusing to accept, receive, transfer, or deliver any cargo, freight, or passengers, or in any other respect whatsoever, he is hereby authorized and empowered, in his discretion, to direct the detention of such vessels by withholding clearance or by formal notice forbidding

departure, and to revoke, modify, or renew any such direction as in his opinion the public interest may require.

That whenever during the existence of a war in which the United States is not engaged the President shall be satisfied that there is reasonable ground to believe that under the laws, regulations, or practices of any belligerent country or Government American ships or American citizens are not accorded any of the facilities of commerce which the vessels or citizens of that belligerent country enjoy in the United States or its possessions, or are not accorded by such belligerent equal privileges or facilities of trade with vessels or citizens of any nationality other than that of such belligerent, the President is hereby authorized and empowered, in his discretion, to withhold clearance from one or more vessels of such belligerent country until such belligerent shall restore to such American vessels and American citizens reciprocal liberty of commerce and equal facilities of trade; or the President may, in his discretion, direct that similar privileges and facilities, if any, enjoyed by vessels or citizens of such belligerents in the United States or its possessions be refused to vessels or citizens of such belligerent; and in such case he shall make proclamation of his direction, stating the facilities and privileges which shall be refused, and the belligerent to whose vessels or citizens they are to be refused, and thereafter the furnishing of such prohibited privileges and facilities to any vessel or citizen of the belligerent named in such proclamation shall be unlawful; and he may change, modify, revoke, or renew such proclamation as in his opinion the public good may require; and any person or persons who shall furnish or attempt or conspire to furnish or be concerned in furnishing or in the concealment of furnishing facilities or privileges to ships or persons contrary to the prohibition in such proclamation shall be liable to a fine of not less than $2,000 nor more than $50,000, or to imprisonment not to exceed two years, or both, in the discretion of the court.

In case any vessel which is detained by virtue of this act shall depart or attempt to depart from the jurisdiction of the United States without clearance or other lawful authority, the owner or master or person or persons having charge or command of such vessel shall be severally liable to a fine of not less than $2,000 nor more than $10,000 or to imprisonment not to exceed two years, or both, and, in addition, such vessel shall be forfeited to the United States.

That the President of the United States is hereby authorized and empowered to employ such part of the land or naval forces of the United States as shall be necessary to carry out the purposes of this act.

Three months later, October 12, the British Government made formal reply. This reply clearly indicates the purpose of the mistress of the seas to prove her primacy.

THE BRITISH AMBASSADOR TO THE SECRETARY OF STATE.

No. 307.] BRITISH EMBASSY,
Washington, October 12, 1916.

SIR: In conformity with instructions received from Viscount Grey, of Fallodon, His Majesty's Principal Secretary of State for Foreign

Affairs, I have the honor to transmit herewith copy of the memorandum (identic memorandum received from the French Embassy) agreed upon by His Majesty's Government and the French Government embodying the joint reply of the allies to your note of May 24 regarding the examination of the mails.

I have, etc.

CECIL SPRING RICE.

[Inclosure—Translation.]

CONFIDENTIAL.

1. By a letter of May 24 last the Secretary of State of the United States was pleased to give the views of the American Government on the memorandum of the allied Governments concerning mails found on merchant ships on the high seas.

2. The allied Governments have found that their views agreed with those of the Government of the United States in regard to the Postal Union convention, which is recognized on both sides to be foreign to the questions now under consideration; post parcels respectively recognized as being under the common rule of merchandise subject to the exercise of belligerent rights, as provided by international law; the inspection of private mails to the end of ascertaining whether they do not contain contraband goods, and, if carried on an enemy ship, whether they do not contain enemy property. It is clear that that inspection which necessarily implies the opening of covers so as to verify the contents could not be carried on on board without being attended with great confusion, causing serious delay to the mails, passengers, and cargoes, and without causing for the letters in transit errors, losses, or at least great risk of miscarriage. That is the reason why the allies had mail bags landed and sent to centers provided with the necessary force and equipment for prompt and regular handling. In all this the allied Governments had no other object in view than to limit, as far as possible, the inconvenience that might result for innocent mails and neutral vessels from the legitimate exercise of their belligerent rights in respect to hostile correspondence.

3. The Government of the United States acknowledges it agrees with the allied Governments as to principles, but expresses certain divergent views and certain criticism as to the methods observed by the allies in applying these principles.

4. These divergencies of views and criticisms are as follows:

5. In the first place, according to the Government of the United States, the practice of the allied Governments is said to be contrary to their own declaration, in that, while declaring themselves unwilling to seize and confiscate genuine mails on the high seas, they would obtain the same result by sending, with or without their consent, neutral vessels to allied ports, there to effect the seizures and confiscations above referred to, and thus exercise over those vessels a more extensive belligerent right than that which is theirs on the high seas. According to the Government of the United States, there should be, in point of law, no distinction to be made between seizure of mails on the high seas, which the allies have declared they will not apply for the present, and the same seizure practiced on board ships that are, whether willingly or not, in an allied port.

6. On this first point and as regards vessels summoned on the high seas and compelled to make for an allied port, the allied Governments have the honor to advise the Government of the United States that they have never subjected mails to a different treatment according as they were found on a neutral vessel on the high seas or on neutral vessels compelled to proceed to an allied port; they have always acknowledged that visits made in the port after a forced change of course must in this respect be on the same footing as a visit on the high seas, and the criticism formulated by the Government of the United States does not therefore seem warranted.

7. As to ships which of their own accord call at allied ports it is important to point out that in this case they are really "voluntarily" making the call. In calling at an allied port the master acts, not on any order from the allied authorities, but solely carries out the instructions of the owner; neither are those instructions forced upon the said owner. In consideration of certain advantages derived from the call at an allied port, of which he is at full liberty to enjoy or refuse the benefits, the owner instructs his captain to call at this or that port. He does not, in truth, undergo any constraint. In point of law the allied Governments think it is a rule generally accepted, particularly in the United States (United States *v.* Dickelman, United States Supreme Court, 1875; 92 U. S. Rep., 520; Scott's cases, 264), that merchant ships which enter a foreign port thereby place themselves under the laws in force in that port, whether in time of war or of peace, and when martial law is in force in that port. It is therefore legitimate in the case of a neutral merchant ship entering an allied port for the authorities of the allied Governments to make sure that the vessel carries nothing inimical to their national defense before granting its clearance. It may be added that the practice of the Germans to make improper use of neutral mails and forward hostile correspondence, even official communications dealing with hostilities, under cover of apparently unoffensive envelopes mailed by neutrals to neutrals, made it necessary to examine mails from or to countries neighboring Germany under the same conditions as mails from or to Germany, itself; but as a matter of course mails from neutrals to neutrals that do not cover such improper uses have nothing to fear.

8. In the second place, according to the Government of the United States the practice now followed by the allied Governments is contrary to the rule of convention 11 of The Hague, 1907, which they declare their willingness to apply, and would, besides, constitute a violation of the practice heretofore followed by nations.

9. In regard to the value to be attached to the eleventh convention of The Hague, 1907, it may first of all be observed that it only refers to mails found at sea and that it is entirely foreign to postal correspondence found on board ships in ports. In the second place, from the standpoint of the peculiar circumstances of the present war the Government of the United States is aware that that convention, as stated in the memorandum of the allies, has not been signed or ratified by six of the belligerent powers (Bulgaria, Italy, Montenegro, Russia, Serbia, and Turkey); that for that very reason Germany availed itself of article 9 of the convention and denied, so far as it was concerned, the obligatory character in these stipulations; and

that for these several reasons the convention possesses in truth but rather doubtful validity in law.

In spite of it all, the allied Governments are guided in the case of mails found on board ships in ports by the intentions expressly manifested in the conferences of The Hague sanctioned in the preamble to convention 11, and tending to protect pacific and innocent commerce only. Mails possessing that character are forwarded as quickly as circumstances permit. In regard to mails found on vessels at sea the allied Governments have not for the present refused to observe the terms of the convention reasonably interpreted; but they have not admitted and can not admit that there is therein a final provision legally binding them, from which they could not possibly depart. The allied Governments expressly reserve to themselves the right to do so in case enemy abuses and frauds, dissimulations, and deceits should make such a measure necessary.

10. As for the practice previously followed by the powers in the time of former wars, no general rule can easily be seen therein prohibiting the belligerents from exercising on the open seas, as to postal correspondence, the right of supervision, surveillance, visitation, and, the case arising, seizure and confiscation, which international law confers upon them in the matter of any freight outside of the territorial waters and jurisdiction of the neutral powers.

11. On the high seas, under international law, it is for the belligerents to seek and prevent transportation or other acts by which neutral vessels may lend their cooperation and assistance to hostile operations of the enemy. Now, as has long ago been observed (among others, Lord Stowell, in The Atalanta, 6 Robinson, 440, 1, English prize cases, 607; Scott's cases, 780), a few lines of a letter delivered to an enemy may be as useful as or even more useful than a cargo of arms and ammunition to promote his war operations. The assistance rendered in such cases by the vessel carrying such a letter is as dangerous for the other belligerents as the assistance resulting from the transportation of military cargoes. As a matter of fact, experience has in the course of the present war demonstrated the truth of this remark. Hostile acts which had been projected in mails have failed. Dangerous plots, from which even neutral countries are not safe at the hands of the enemy, were discovered in the mails and baffled. Finally the addressees of certain letters which the allies had seen fit to respect have evidenced a satisfaction the hostile character of which removed every doubt as to the significance of those letters.

12. The report adopted by the conference of The Hague in support of convention 11 leaves little doubt as to the former practice in the matter: "The seizure, opening the bags, examination, confiscation if need be, in all cases delay or even loss, are the fate usually awaiting mail bags carried by sea in time of war." (Second Peace Conference, acts and documents, vol. 1, p. 266.)

13. The American note of May 24, 1916, invokes the practice followed by the United States during the Mexican and Civil Wars; the practice followed by France in 1870; by the United States in 1898; by Great Britain in the South African War; by Japan and Russia in 1904; and now by Germany.

14. As regards the proceedings of the German Empire toward postal correspondence during the present war, the allied governments

have informed the Government of the United States of the names of some of the mail steamers whose mail bags have been—not examined to be sure—but purely and simply destroyed at sea by the German naval authorities. Other names could very easily be added—the very recent case of the mail steamer *Hudikswall* (Swedish) carrying 670 mail bags, may be cited.

15. The allied governments do not think that the criminal habit of sinking ships, passengers, and cargoes, or abandoning on the high seas the survivors of such calamities is, in the eyes of the Government of the United States, any justification for the destruction of the mail bags on board; and they do not deem it to the purpose to make a comparison between these destructive German proceedings and the acts of the allies in supervising and examining enemy correspondence.

16. As to the practice of Russia and Japan, it may be permitted to doubt that it was at variance with the method of the allied governments in the present war.

17. The imperial Russian decree of May 13–25, 1877, for the exercise of the right of visit and capture, provides, paragraph 7: "The following acts which are forbidden to neutrals are assimilated to contraband of war: The carrying * * * of dispatches and correspondence of the enemy." The Russian imperial decree of September 14, 1904, reproduces the same provision. The procedure followed in regard to the mail steamers, and the prize decisions bear witness that public or private mails found on board neutral vessels were examined, landed, and, when occasion arose, seized.

18. Thus, in May and July, 1904, postal correspondence carried on the steamships *Osiris* (British) and *Prinz Heinrich* (German) was examined by the Russian cruisers to see whether it contained Japanese correspondence. Thus, again, in July, 1904, the steamer *Calchas* (British), captured by Russian cruisers, had 16 bags of mail that had been shipped at Tacoma by the postal authorities of the United States seized on board and landed and the prize court of Vladivostok examined their contents, which it was recognized it could lawfully do. (Russian prize cases, p. 139.)

19. As regards the practice of Japan, the Japanese rules concerning prizes, dated March 15, 1904, made official enemy correspondence, with certain exceptions, contraband of war. They ordered the examination of mail bags on mail steamers unless there was on board an official of the post office, making a declaration in writing and under oath that the bags contained no contraband; it was even added that no account should be taken of such a declaration if there existed grave suspicions. On the other hand, the Japanese prize court rules acknowledged the power of those courts in the examination of prize cases to examine letters and correspondence found on board neutral vessels. (Takahashi, "International Law Applied to Russo-Japanese War," p. 568.)

20. The French practice during the war of 1870 is found outlined in the naval instructions of July 26, 1870, under which official dispatches were on principle assimilated to contraband, and official or private letters found on board captured vessels were to be sent immediately to the minister of marine. Subsequently the circumstances of war permitted of the rule in additional instructions, under which, if the vessel to be visited was a mail steamer having on board an

official of the post office of the Government whose flag she displayed, the visiting officer might be content with that official's declaration regarding the nature of the dispatches.

21. During the South African war the British Government was able to limit its intervention in the forwarding of postal correspondence and mails as far as the circumstances of that war allowed, but it did not cease to exercise its supervision of the mails intended for the enemy.

22. As to the practice followed by the Government of the United States during the American Civil War, particularly in the *Peterhoff* case, cited in the American memorandum of May 24, 1916, the following instructions issued in that case by the Secretary of State of the United States do not seem to imply anything but the forwarding of correspondence which has been found to be innocent: "I have, therefore, to recommend that in this case, if the district attorney has any evidence to show the mails are simulated and not genuine, it shall be submitted to the court; if there be no reasonable grounds for that belief, then that they be put on their way to their original destination." (Letter of Mr. Seward, Secretary of State, to Mr. Welles, Secretary of the Navy, Apr. 15, 1863; VII Moore's Dig., p. 482.)

23. Finally, as regards the free transit granted to mails by the United States during the Mexican War, one may be allowed to recall the circumstances under which this proceeding was adopted. By a letter dated May 20, 1846, notified on the following 10th of July, the commander of the United States cruiser *St. Mary* announced the blockade of the port of Tampico. Although that measure authorized, without a doubt, the seizure and confiscation of all correspondence for the blockaded port, the American naval authorities, on learning the circumstances of the case, declared "neutral noncommercial mail packets are free to enter and depart," and it was even added that "Mexican boats engaged exclusively in fishing will be allowed to pursue their labor unmolested." (British State Papers, vol. 35, 1846–47.)

24. It seems difficult to compare the blockade of the port of Tampico in 1846 with the measures taken by the allies in the course of this war to reduce the economic resistance of the German Empire, or to find in the method then adopted by the United States a precedent which condemns the practice now put in use by the allied Governments.

25. To waive the right to visit mail steamers and mail bags intended for the enemy seemed in the past (Dr. Lushington, "Naval Prize Law," Introd., p. 12) a sacrifice which could hardly be expected of belligerents. The allied Governments have again noted in their preceding memorandum how and why, relying on certain declarations of Germany, they had thought in the course of the second peace conference of 1907 they could afford to waive that right. They have also drawn the attention of the Government of the United States to the fraudulent use Germany hastened to make of this waiver of the previous practices above mentioned.

26. After pointing to a certain number of specific cases where American interests happened to be injured from the postal supervision exercised by the British authorities, forming the subject of the special memorandum of the Government of His Majesty, dated July

20, 1916, the Government of the United States was pleased to make known its views as to what is to be and is not to be recognized as not possessing the character of postal correspondence.

27. In this respect the Government of the United States admits that shares, bonds, coupons, and other valuable papers; money orders, checks, drafts, bills of exchange, and other negotiable papers, being the equivalent of money, may, when included in postal shipments, be considered as of the same nature as merchandise and other property, and therefore be also subjected to the exercise of belligerent rights.

28. Yet the American memorandum adds that correspondence, including shipping documents, lists of money orders, and documents of this nature, even though referring to shipments to or exports by the enemy, must be treated as mail and pass freely unless they refer to merchandise on the same ship that is liable to capture.

29. As regards shipping documents and commercial correspondence found on neutral vessels, even in an allied port and offering no interest of consequence as affecting the war, the allied Governments have instructed their authorities not to stop them, but to see that they are forwarded with as little delay as possible. Mail matter of that nature must be forwarded to destination as far as practicable on the very ship on which it was found or by a speedier route, as is the case for certain mails inspected in Great Britain.

30. As for the lists of money orders to which the Government of the United States assigns the character of ordinary mail, the allied Governments deem it their duty to draw the attention of the Government of the United States to the following practical consideration:

31. As a matter of fact, the lists of money orders mailed from the United States to Germany and Austria-Hungary correspond to moneys paid in the United States and payable by the German and Austro-Hungarian post offices. Those lists acquaint those post offices with the sums that have been paid there which in consequence they have to pay to the addressees. In practice, such payment is at the disposal of such addressees and is effected directly to them as soon as those lists arrive and without the requirement of the individual orders having come into the hands of the addressees. These lists are thus really actual money orders transmitted in lump in favor of several addressees. Nothing, in the opinion of the allied Governments, seems to justify the liberty granted to the enemy country so to receive funds intended to supply by that amount its financial resisting power.

32. The American memorandum sees fit firmly to recall that neutral and belligerent rights are equally sacred and must be strictly respected. The allied Governments, so far as they are concerned, wholly share that view. They are sincerely striving to avoid an encroachment by the exercise of their belligerent rights on the legitimate exercise of the rights of innocent neutral commerce, but they hold that it is their belligerent right to exercise on the high seas the supervision granted them by international law to impede any transportation intended to aid their enemy in the conduct of the war and to uphold his resistance. The rights of the United States as a neutral power can not, in our opinion, imply the protection granted by the Federal Government to shipments, invoices, correspondence,

or communications in any shape whatever having an open or concealed hostile character and with a direct or indirect hostile destination, which American private persons can only effect at their own risk and peril. That is the very principle which was expressly stated by the President of the United States in his neutrality proclamation.

33. Furthermore, should any abuses, grave errors, or derelictions committed by the allied authorities charged with the duty of inspecting mails be disclosed to the Governments of France and Great Britain, they are now as they ever were ready to settle responsibility therefor in accordance with the principles of law and justice which it never was and is not now their intention to evade.

Aside from the controversy with Great Britain over commercial rights growing out of the belligerent control of the seas, the dspute over the treatment of mails and telegraphic communication is important. This matter became the subject of diplomatic discussion, as shown by our communication, January 4, 1916:

THE SECRETARY OF STATE TO AMBASSADOR W. H. PAGE.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 4, 1916.

Department advised that British customs authorities removed from Danish steamer *Oscar Second* 734 bags parcel mail en route from United States to Norway, Sweden, and Denmark; that British port authorities have removed from Swedish steamer *Stockholm* 58 bags parcel mail en route Gothenburg, Sweden, to New York; that 5,000 packages of merchandise, American property, have been seized by British authorities on the Danish steamer *United States* on her last trip to the United States; that customs authorities at Kirkwall, on December 18, seized 597 bags of parcel mail from steamer *Frederick VIII* manifested for Norway, Sweden, and Denmark. Other similar cases might be mentioned, such as that of the steamer *Heligolav*. Department inclined to regard parcel-post articles as subject to same treatment as articles sent as express or freight in respect to belligerent search, seizure, and condemnation. On the other hand parcel-post articles are entitled to the usual exemptions of neutral trade, and the protests of the Government of the United States in regard to what constitutes the unlawful bringing in of ships for search in port, the illegality of so-called blockade by Great Britain, and the improper assumption of jurisdiction of vessels and cargoes apply to commerce using Parcel Post Service for the transmission of commodities. Please bring this matter of parcel post formally to the attention of the British Government.

The department is further informed that on December 23 the entire mails, including sealed mails and presumably the American diplomatic and consular pouches, from the United States to the Netherlands were removed by British authorities from the Dutch steamer *New Amsterdam;* that on December 20 the Dutch vessel *Noorder Dyke* was deprived at the Downs of American mail from

the United States to Rotterdam, and that these mails are still held by British authorities. Other similar instances could be mentioned, as the cases of the steamers *Rotterdam* and *Noordam*. The department can not admit the right of British authorities to seize neutral vessels plying directly between American and neutral European ports without touching at British ports, to bring them into port, and, while there, to remove or censor mails carried by them. Modern practice generally recognizes that mails are not to be censored, confiscated, or destroyed on high seas, even when carried by belligerent mail ships. To attain same end by bringing such mail ships within British jurisdiction for purposes of search and then subjecting them to local regulations allowing censorship of mails can not be justified on the ground of national jurisdiction. In cases where neutral mail ships merely touch at British ports, the department believes that British authorities have no international right to remove the sealed mails or to censor them on board ship. Mails on such ships never rightfully come into the custody of the British mail service, and that service is entirely without responsibility for their transfer or safety.

As a result of British action, strong feeling is being aroused in this country on account of the loss of valuable letters, money orders, and drafts, and foreign banks are refusing to cash American drafts owing to the absence of any security that the drafts will travel safely in the mails. Moreover, the detention of diplomatic and consular mail is an aggravating circumstance in a practice which is generally regarded in this country as vexatiously inquisitorial and without compensating military advantage to Great Britain. Please lay this matter immediately before the British Government in a formal and vigorous protest and press for a discontinuance of these unwarranted interferences with inviolable mails. Impress upon Sir Edward Grey the necessity for prompt action in this matter.

LANSING.

The following note was received from the French Ambassador and was identical with a note received from the British Government April 3, 1916:

[Inclosure—Translation.]

MEMORANDUM RELATIVE TO POSTAL CORRESPONDENCE ON THE HIGH SEAS.

FEBRUARY 15, 1916.

The treatment of mail correspondence carried by sea has, in the course of the present war, been the object of various uncertainties, has occasioned some confusion, and at times given rise to criticisms, which, for the sake of international relations and neutral commerce, the allied Governments deem it advisable to dispel.

It has always been and is the paramount object of postal services to receive, carry, and distribute written correspondence or missive letters. By degrees recourse was had to the same services for the transmission of printed documents, then samples, valuables, and finally, under the name of "post parcels," almost every kind of merchandise, provided only that certain conditions were met in respect of weight, bulk, and packing.

It is also known that, when bearing postage stamps, any sealed wrapper, irrespective of its contents, weight, or bulk, may be mailed and is treated as a letter by the postal administrations.

The reflex action of the war on that state of things suggests the following remarks:

At the time of the second conference of The Hague in 1907, the Imperial German Government argued that the telegraph offering belligerents much quicker and safer means of communication than the post, there was no longer any interest in regarding, as theretofore, postal correspondence as apt to prove contraband by analogy and in disturbing its transmission through seizure and confiscation. Their confidence won by a proposition that looked so pacific, the other powers concurred. Article I of the Eleventh Convention of The Hague of 1907 stipulates, as is known, that thenceforward postal correspondence on the high seas is "inviolable."

A first remark must be made with respect to the "post parcels."

The shipment of merchandise by "parcel post" is a mode of shipment and transportation analogous to shipment and transportation on way bills or bills of lading, with this difference, that the transportation is undertaken by the mail service, which moreover sometimes turns it over to common carriers, as is the case in France.

In no wise do such "parcels" constitute "letters" or "correspondence" or "dispatches," and they are clearly not withdrawn in any way from the exercise of the rights of police, supervision, visitation, and eventual seizure which belong to belligerents as to all cargoes on the high seas.

This was shown notably in a communication of the Post Office Department of the United States addressed on April 8, 1915, to the French authorities and transmitting a statement in conformity therewith from the commander of the *Prinz Eitel Friedrich*, a vessel of the Imperial German Navy, regarding the post parcels shipped on the French mail steamer *Floride*, which the first-named cruiser had captured. (See Exhibit 1.)

The allied Governments have also adopted this view, which in their opinion is fully founded in law and superabundantly justified by the facts.

Among many other examples it will be sufficient to cite: 1,302 post parcels, containing together 437,510 grams of india rubber for Hamburg (steamers *Tijuca*, *Bahia*, *Jaguaribe*, *Maranhao*, *Acre*, *Olinda*, *Para*, *Brazil*); or again, 69 post parcels, containing 400 revolvers for Germany via Amsterdam (S. S. *Gelria*).

As regards the forwarding of letters, wrappers, envelopes, and others intrusted to the postal services and generally contained in the mail bags of the post office of the countries which send them forth, the allied Governments bring the following consideration to the notice of the neutral Governments:

Between December 31, 1914, and December 31, 1915, the German or Austro-Hungarian naval authorities destroyed, without previous warning or visitation, 13 mail ships (see Exhibit 2) with the mail bags on board, coming from or going to neutral or allied countries, without any more concern about the inviolability of the dispatches and correspondence they carried than about the lives of the inoffensive persons aboard the ships.

It has not come to the knowledge of the allied Governments that any protest touching postal correspondence was ever addressed to the Imperial Governments.

Under dates of August 11, 17, and 18, 1915, the neutral mail steamers *Iris* (Norwegian), *Haakon VII* (Norwegian), *Germania* (Swedish) had the mail bags they carried from and to all places seized on the high seas by the German naval authorities; the letters and correspondence were censored by the German authorities, as proven by the photograph herein inclosed by way of illustration (Exhibit 3). (Not printed.)

The allied Governments understand that subsequently the Imperial German Government, while announcing its intention to desist from such seizures, declared that the said seizures were and would be fully warranted in its opinion. According to the Imperial German Government, the Eleventh Convention of The Hague of 1907, not having been ratified by all the powers at present engaged in the war, would be inapplicable.

Finally the supervision within the territories of the allies of various mail bags shipped on mail steamers that call at certain ports in the said territories more recently disclosed the presence in the wrappers, envelopes, and mail matter of contraband articles particularly sought after by the enemy, and notably: On board the S. S. *Tubantia*, arriving in Europe, 174½ pounds of india rubber, of which 101 pounds of the Para, highest grade, and seven parcels of wool; on board the S. S. *Medan*, seven parcels of crude rubber. That same supervision, exercised under the same conditions on mail bags from Europe which at first sight might have been supposed to contain nothing but correspondence, uncovered in the bags put on board the single mail steamer *Zaandyjk* (Dutch) not less than 368 parcels of miscellaneous goods.

The following letter from the German firm of G. Vogtman & Co., dated from Hamburg, No. 16, Glockengiesserwall, December 15, 1915, is particularly instructive:

[Translation.]

"For some time past we have been receiving regularly from Para invoices of crude india rubber, and you might turn your attention to that line of business. The shipments are made in the shape of 'Samples without value,' registered, about 200 parcels in every mail, each containing about 320 grams of rubber, net. The trouble of doing up the parcels and the high cost of postage are amply covered by the high price commanded by the commodity here."

It is known that on December 15, 1915, crude india rubber, which the German State took all up, was worth about 25 marks per kilog, and, as the Hamburg merchant remarked, "ein guter verdienst nicht ausgeschlossen ist" (a handsome profit is not barred out).

Hostile traffic, shut out of the mastery of the seas, thus resorted to hide in mail matter in order to get through all kinds of merchandise, contraband of war even included, apparently by imposing on the post-office departments of the neutral States.

From a legal standpoint, the right of belligerents to exercise police and supervision powers over vessels and particularly over what they carry has never, to the knowledge of the allied Governments, been subject to exceptions, not any more in regard to mail bags than in

regard to any other cargo; nay, more, as late as 1907 the letters and dispatches themselves could be seized and confiscated.

By the eleventh convention of The Hague, and for the reasons above stated, the signatory powers waived the rights to so seize dispatches and declared postal correspondence to be inviolable.

The said inviolability only detracted from the public law as far as "correspondence"—that is to say, dispatches or "missive letters"—are concerned, because, as we have seen, it was thought, rightfully or wrongfully, that belligerents having in the telegraph a better medium of correspondence, correspondence by mail was of no interest in warfare. The result is, on the one hand, that inviolability does not apply to any mail matter that is not "correspondence"—that is to say, "missive letters"—and, on the other hand, that this inviolability would be given a wider scope than it possesses if it were regarded as exempting from any supervision goods and articles shipped by mail, even though they were contraband of war.

Under these conditions the allied governments announce:

1. That from the standpoint of their right of visitation and eventual arrest and seizure, merchandise shipped in post parcels needs not and shall not be treated otherwise than merchandise shipped in any other manner.

2. That the inviolability of postal correspondence stipulated by the eleventh convention of The Hague of 1907 does not in any way affect the right of the allied governments to visit and, if occasion arise, arrest and seize merchandise hidden in the wrappers, envelopes, or letters contained in the mail bags.

3. That true to their engagements and respectful of genuine "correspondence," the allied governments will continue, for the present, to refrain on the high seas from seizing and confiscating such correspondence, letters, or dispatches, and will insure their speediest possible transmission as soon as the sincerity of their character shall have been ascertained.

EXHIBIT I.

POST OFFICE DEPARTMENT,
SECOND ASSISTANT POSTMASTER GENERAL,
DIVISION OF FOREIGN MAILS,
Washington, April 8, 1915.

I have the honor to inform you that the German auxiliary cruiser *Prinz Eitel Friedrich* delivered to the postmaster of Newport News, Va., on March 12, 144 mail bags for places in South America which had been transshipped from the French steamer *Floride* to the said cruiser before it sank the steamer. The dispatches, which appeared to be intact, were sent to the New York office, whence they were forwarded to destination in the same condition and at the first opportunity.

In delivering to the officials at Newport News the aforesaid dispatches the commander of the *Prinz Eitel Friedrich* declared that the post parcels on board the steamship *Floride* had been regarded as merchandise and not as correspondence; that is the reason why he did not have them taken out of the *Floride* as the other mail matter was, but allowed them to sink with the vessel, basing his action on

the declaration of London, according to which parcels are merchandise and not correspondence.

I further inform you that the New York post office advised the Bordeaux office of these facts by means of a check slip.

EXHIBIT II.—*Mails destroyed by enemies from Dec. 31, 1914, to Dec. 31, 1915.*

Names of ships.	Tonnage.	Dates.	Enemy ships.
1. Highland Brae [1]	7,634	Dec. 31, 1914	Kaiser Wilhelm.
2. Tokomaru [2]	6,084	Jan. 30, 1915	Torpedoed by a German submarine.
3. Aguila [3]	2,114	Mar. 27, 1915	Do.
4. Falaba [4]	4,806	Mar. 28, 1915	Do.
5. Lusitania [5]	30,396	May 6, 1915	Do.
6. Candidate [6]	5,858	May 7, 1915	Do.
7. Arabic [7]	15,801	Aug. 19, 1915	Do.
8. Hesperian [8]	10,920	Sept. 4, 1915	Do.
9. Silver Ash [9]	3,753	Oct. 6, 1915	
10. Linkmoor [9]	4,306	Sept. 20, 1915	
11. Persia [10]	7,964	Dec. 29, 1915	Torpedoed.
12. Ville de la Ciotat (French) [11]	6,390	Dec. 24, 1915	Sunk by a German submarine.
13. Author [12]	3,496		

[1] Mails and post parcels from Buenos Aires, Santiago, and Montevideo.
[2] Parcels and printed matter from New Zealand.
[3] Mail for Madeira and the Canary Islands.
[4] Mail and post parcels for West Africa.
[5] United States mail.
[6] Post parcels for Jamaica.
[7] Mail for the United States, Canada, etc.
[8] Mail and post parcels for the United States and Canada.
[9] Mail of His British Majesty's ships.
[10] Mail and post parcels for the Near East.
[11] Far East mail.
[12] Africa mail.

THE BRITISH AMBASSADOR TO THE SECRETARY OF STATE.

No. 85.] BRITISH EMBASSY,
Washington, April 3, 1916.

SIR: I have the honor, by direction of Sir Edward Grey, His Majesty's principal secretary of state for foreign affairs, to transmit to you herewith a memorandum (not printed) identical with memorandum transmitted with the note of the French ambassador April 3, 1916, supra (p. 406), stating the contentions of His Majesty's Government and the French Government in regard to their right to detain and examine parcels and letter mails on neutral vessels.

I have, etc.,

CECIL SPRING RICE.

THE SECRETARY OF STATE TO THE BRITISH AMBASSADOR.

[Same to the French ambassador.]

No. 1186.] DEPARTMENT OF STATE,
Washington, May 24, 1916.

EXCELLENCY: I have the honor to acknowledge receipt of your excellency's note of April 3 last, transmitting a memorandum dated February 15, 1916, and communicated in substance to the American ambassador in London on February 28, in which are stated the contentions of the British and French Governments in regard to the right to detain and examine parcel and letter mail en route by sea between the United States and Europe.

After a discussion of the use of the mails for the transmission of "parcels" and of the limitations to be placed on "inviolable mail," the joint memorandum of February 15 closes with the following assertions:

"1. That from the standpoint of their right of visitation and eventual arrest and seizure, merchandise shipped in post parcels needs not and shall not be treated otherwise than merchandise shipped in any other manner.

"2. That the inviolability of postal correspondence stipulated by the eleventh convention of The Hague of 1907 does not in any way affect the right of the allied Governments to visit, and if occasion arise, arrest and seize merchandise hidden in the wrappers, envelopes, or letters contained in the mail bags.

"3. That true to their engagements and respectful of genuine 'correspondence,' the allied Governments will continue, for the present, to refrain on the high seas from seizing and confiscating such correspondence, letters, or dispatches, and will insure their speediest possible transmission as soon as the sincerity of their character shall have been ascertained."

In reply the Government of the United States desires to state that it does not consider that the Postal Union Convention of 1906 necessarily applies to the interference by the British and French Governments with the oversea transportation of mails of which the Government of the United States complains. Furthermore, the allied powers appear to have overlooked the admission of the Government of the United States that post parcels may be treated as merchandise subject to the exercise of belligerent rights as recognized by international law. But the Government of the United States does not admit that such parcels are subject to the "exercise of the rights of police supervision, visitation, and eventual seizure which belongs to belligerents as to all cargoes on the high seas," as asserted in the joint note under acknowledgment.

It is noted with satisfaction that the British and French Governments do not claim, and, in the opinion of this Government, properly do not claim, that their so-called "blockade" measures are sufficient grounds upon which to base a right to interfere with all classes of mail matter in transit to or from the central powers. On the contrary, their contention appears to be that, as "genuine correspondence" is under conventional stipulation "inviolable," mail matter of other classes is subject to detention and examination. While the Government of the United States agrees that "genuine correspondence" mail is inviolable, it does not admit that belligerents may search other private sea-borne mails for any other purpose than to discover whether they contain articles of enemy ownership carried on belligerent vessels or articles of contraband transmitted under sealed cover as letter mail, though they may intercept at sea all mails coming out of and going into ports of the enemy's coasts which are effectively blockaded. The Governments of the United States, Great Britain, and France, however, appear to be in substantial agreement as to principle. The method of applying the principle is the chief cause of difference.

Though giving assurances that they consider "genuine correspondence" to be "inviolable," and that they will, "true to their engagements," refrain "on the high seas" from seizing and confiscating

such correspondence, the allied Governments proceed to deprive neutral Governments of the benefits of these assurances by seizing and confiscating mail from vessels in port instead of at sea. They compel neutral ships without just cause to enter their own ports, or they induce shipping lines, through some form of duress, to send their mail ships via British ports, or they detain all vessels merely calling at British ports, thus acquiring by force or unjustifiable means an illegal jurisdiction. Acting upon this enforced jurisdiction the authorities remove all mails, genuine correspondence, as well as post parcels, take them to London, where every piece, even though of neutral origin and destination, is opened and critically examined to determine the "sincerity of their character," in accordance with the interpretation given that undefined phrase by the British and French censors. Finally the expurgated remainder is forwarded, frequently after irreparable delay, to its destination. Ships are detained en route to or from the United States or to or from other neutral countries, and mails are held and delayed for several days and, in some cases for weeks and even months, even though not routed to ports of north Europe via British ports. This has been the procedure which has been practiced since the announcement of February 15, 1916. To some extent the same practice was followed before that date, calling forth the protest of this Government on January 4, 1916. But to that protest the memorandum under acknowledgment makes no reference and is entirely unresponsive. The Government of the United States must again insist with emphasis that the British and French Governments do not obtain rightful jurisdiction of ships by forcing or inducing them to visit their ports for the purpose of seizing their mails, or thereby obtain greater belligerent rights as to such ships than they could exercise on the high seas, for there is, in the opinion of the Government of the United States, no legal distinction between the seizure of mails at sea, which is announced as abandoned, and their seizure from vessels voluntarily or involuntarily in port. The British and French practice amounts to an unwarranted limitation on the use by neutrals of the world's highway for the transmission of correspondence. The practice actually followed by the allied powers must be said to justify the conclusions, therefore, that the announcement of February 15 was merely notice that one illegal practice had been abandoned to make place for the development of another more onerous and vexatious in character.

The present practice is a violation not only of the spirit of the announcement of February 15 but of the rule of The Hague Convention, upon which it is concededly based. Aside from this, it is a violation of the prior practice of nations which Great Britain and her allies have in the past assisted to establish and maintain, notwithstanding the statement in the memorandum that "as late as 1907 the letters and dispatches themselves could be seized and confiscated."

During the war between the United States and Mexico the United States forces allowed British steamers to enter and depart from the port of Vera Cruz without molesting the mails intended for inland points. During the American Civil War Lord Russell endeavored to induce the United States to concede that "Her Majesty's mails on board a private vessel should be exempted from visitation or detention." This exemption of mails was urged in October, 1862, in

the case of British mails on board the *Adela*. On October 31 Secretary Seward announced that "public mails of any friendly or neutral power duly certified or authenticated as such shall not be searched or opened but be put as speedily as may be convenient on the way to their designated destination." In accordance with this announcement the Government of the United States, in the case of the British steamship *Peterhof*, which had been seized with her mails against the protest of Her Majesty's Government, had her mails forwarded to destination unopened.

The same rule was followed by France, as I am advised in the Franco-Prussian War of 1870; by the United States in the Spanish-American War of 1898; by Great Britain in the South African War, in the case of the German mail steamers *Bundesrath* and *General;* by Japan and and substantially by Russia in the Russo-Japanese War of 1904. And even in the present war, as the memorandum of Great Britain and France states, their enemy, Germany, has desisted from the practice of interfering with neutral mails, even on board belligerent steamers. This is illustrated in the case of the French steamer *Floride*, captured by the auxiliary cruiser *Prinz Eitel Frederich*, cited by the British and French Governments in support of their argument regarding parcel mails. In this case the letter mails of the *Floride*, amounting to 144 sacks, were forwarded to their destination by the commander at the first opportunity upon arriving in the United States. It would seem, therefore, to be conclusively established that the interference with mails of which this Government justly complains are wrong in principle and in practice.

The arbitrary methods employed by the British and French Governments have resulted most disastrously to citizens of the United States. Important papers which can never be duplicated, or can be duplicated only with great difficulty, such as United States patents for inventions, rare documents, legal papers relating to the settlement of estates, powers of attorney, fire insurance claims, income-tax returns, and similar matters, have been lost. Delays in receiving shipping documents have caused great loss and inconvenience by preventing prompt delivery of goods. In the case of the MacNiff Horticultural Co., of New York, large shipments of plants and bulbs from Holland were, I am informed, frozen on the wharves because possession could not be obtained in the absence of documents relating to them which had been removed from the *New Amsterdam*, *Oosterdyk*, and *Rotterdam*. Business opportunities are lost by failure to transmit promptly bids, specifications, and contracts. The Standard Underground Cable Co., of Pittsburgh, for example, sent by mail a tender and specifications for certain proposed electrical works to be constructed in Christiania; after several weeks of waiting, the papers having failed to arrive, the American company was told that the bids could not be longer held open and the contract was awarded to a British competitor. Checks, drafts, money orders, securities, and similar property are lost or detailed for weeks and months. Business correspondence relating to legitimate and bona fide trade between neutral countries, correspondence of a personal nature, and also certain official correspondence, such as money-order lists and other matter forwarded by Government departments, are detained, lost, or possibly destroyed. For instance, the Postmaster General informs me

that certain international money-order lists from the United States to Germany, Greece, and other countries, and from Germany to the United States, sent through the mails, have not reached their destination, though dispatched several months ago. It was necessary to have some of these lists duplicated and again dispatched by the steamship *Frederick VIII*, which sailed from New York on April 19, and from which all the mails intended for Germany have been taken and held in British jurisdiction. As a further example of the delay and loss consequent upon the British practice the Postmaster General also sends me a copy of a letter from the British postal administration admitting that the mails were removed from the steamer *Medan* in the Downs on January 30 last and not forwarded until some time "between the 2d of February and the 2d of March," and that 182 bags of these mails "were lost during transmission to Holland on the 26th day of February by the Dutch steamship *Mecklenburg*." The *Medan* arrived safely at Rotterdam a day or two after she left the Downs. Numerous complaints similar to the foregoing have been received by this Government, the details of which are available, but I believe I have cited sufficient facts to show the unprecedented and vexatious nature of the interference with mails persisted in by British and French authorities. Not only are American commercial interests injured, but rights of property are violated, and the rules of international law and custom are palpably disregarded. I can only add that this continuing offense has led to such losses to American citizens and to a possible responsibility of the United States to repair them that this Government will be compelled in the near future to press claims for full reclamation upon the attenttion of His Majesty's Government and that of the French Republic.

The principle being plain and definite, and the present practice of the Governments of Great Britain and France being clearly in contravention of the principle, I will state more in detail the position of the Government of the United States in regard to the treatment of certain classes of sealed mails under a strict application of the principle upon which our Governments seem to be in general accord. The Government of the United States is inclined to the opinion that the class of mail matter which includes stocks, bonds, coupons, and similar securities is to be regarded as of the same nature as merchandise or other articles of property and subject to the same exercise of belligerent rights. Money orders, checks, drafts, notes, and other negotiable instruments which may pass as the equivalent of money are, it is considered, also to be classed as merchandise. Correspondence, including shipping documents, money-order lists, and papers of that character, even though relating to "enemy supplies or exports," unless carried on the same ship as the property referred to, are, in the opinion of this Government, to be regarded as "genuine correspondence," and entitled to unmolested passage.

The Government of the United States, in view of the improper methods employed by the British and French authorities in interrupting mails passing between the United States and other neutral countries and between the United States and the enemies of Great Britain, can no longer tolerate the wrongs which citizens of the United States have suffered and continue to suffer through these methods. To submit to a lawless practice of this character would

open the door to repeated violations of international law by the belligerent powers on the ground of military necessity of which the violator would be the sole judge. Manifestly, a neutral nation can not permit its rights on the high seas to be determined by belligerents or the exercise of those rights to be permitted or denied arbitrarily by the Government of a warring nation. The rights of neutrals are as sacred as the rights of belligerents and must be as strictly observed.

The Government of the United States, confident in the regard for international law and the rights or neutrals, which the British and French Governments have so often proclaimed and the disregard of which they have urged so vigorously against their enemies in the present war, expects the present practice of the British and French authorities in the treatment of mails from or to the United States to cease and belligerent rights, as exercised, to conform to the principle governing the passage of mail matter and to the recognized practice of nations. Only a radical change in the present British and French policy, restoring to the United States its full rights as a neutral power, will satisfy this Government.

I have, etc.,

ROBERT LANSING.

THE BRITISH AMBASSADOR TO THE SECRETARY OF STATE.

No. 307] BRITISH EMBASSY,
Washington, October 12, 1916.

SIR: In conformity with instructions received from Viscount Grey, of Fallodon, His Majesty's Principal Secretary of State for Foreign Affairs, I have the honor to transmit herewith copy of the memorandum (identic memorandum received from the French Embassy), agreed upon by His Majesty's Government and the French Government, embodying the joint reply of the allies to your note of May 24 regarding the examination of the mails.

I have, etc.,

CECIL SPRING RICE.

[Inclosure—Translation.]

CONFIDENTIAL.

1. By a letter of May 24 last the Secretary of State of the United States was pleased to give the views of the American Government on the memorandum of the allied Governments concerning mails found on merchant ships on the high seas.

2. The allied Governments have found that their views agreed with those of the Government of the United States in regard to the Postal Union Convention, which is recognized on both sides to be foreign to the questions now under consideration; post parcels respectively recognized as being under the common rule of merchandise subject to the exercise of belligerent rights, as provided by international law; the inspection of private mails to the end of ascertaining whether they do not contain contraband goods, and, if carried on an enemy ship, whether they do not contain enemy property. It is clear that that inspection which necessarily implies the

opening of covers so as to verify the contents could not be carried on on board without being attended with great confusion, causing serious delay to the mails, passengers, and cargoes, and without causing for the letters in transit errors, losses, or at least great risk of miscarriage. That is the reason why the allies had mail bags landed and sent to centers provided with the necessary force and equipment for prompt and regular handling. In all this the allied Governments had no other object in view than to limit, as far as possible, the inconvenience that might result for innocent mails and neutral vessels from the legitimate exercise of their belligerent rights in respect to hostile correspondence.

3. The Government of the United States acknowledges it agrees with the allied Governments as to principles, but expresses certain divergent views and certain criticism as to the methods observed by the allies in applying these principles.

4. These divergencies of views and criticisms are as follows:

5. In the first place, according to the Government of the United States, the practice of the allied Governments is said to be contrary to their own declaration, in that, while declaring themselves unwilling to seize and confiscate genuine mails on the high seas, they would obtain the same result by sending, with or without their consent, neutral vessels to allied ports, there to effect the seizures and confiscations above referred to, and thus exercise over those vessels a more extensive belligerent right than that which is theirs on the high seas. According to the Government of the United States, there should be in point of law no distinction to be made between seizure of mails on the high seas, which the allies have declared they will not apply for the present, and the same seizure practiced on board ships that are, whether willingly or not, in an allied port.

6. On this first point and as regards vessels summoned on the high seas and compelled to make for an allied port, the allied Governments have the honor to advise the Government of the United States that they have never subjected mails to a different treatment according as they were found on a neutral vessel on the high seas or on neutral vessels compelled to proceed to an allied port; they have always acknowledged that visits made in the port after a forced change of course must in this respect be on the same footing as a visit on the high seas, and the criticism formulated by the Government of the United States does not therefore seem warranted.

7. As to ships which of their own accord call at allied ports it is important to point out that in this case they are really "voluntarily" making the call. In calling at an allied port the master acts, not on any order from the allied authorities, but solely carries out the instructions of the owner; neither are those instructions forced upon the said owner. In consideration of certain advantages derived from the call at an allied port, of which he is at full liberty to enjoy or refuse the benefits, the owner instructs his captain to call at this or that port. He does not, in truth, undergo any constraint. In point of law the allied Governments think it a rule generally accepted, particularly in the United States (United States *v.* Dickelman, United States Supreme Court, 1875; 92 U. S. Rep., 520; Scott's cases, 264), that merchant ships which enter a foreign port thereby place themselves under the laws in force in that port,

whether in time of war or of peace, and when martial law is in force in that port. It is therefore legitimate in the case of a neutral merchant ship entering an allied port for the authorities of the allied Governments to make sure that the vessel carries nothing inimical to their national defense before granting its clearance. It may be added that the practice of the Germans to make improper use of neutral mails and forward hostile correspondence, even official communications dealing with hostilities, under cover of apparently unoffensive envelopes mailed by neutrals to neutrals, made it necessary to examine mails from or to countries neighboring Germany under the same conditions as mails from or to Germany itself; but, as a matter of course, mails from neutrals to neutrals that do not cover such improper uses have nothing to fear.

8. In the second place, according to the Government of the United States the practice now followed by the allied Governments is contrary to the rule of convention 11 of The Hague, 1907, which they declare their willingness to apply, and would, besides, constitute a violation of the practice heretofore followed by nations.

9. In regard to the value to be attached to the eleventh convention of The Hague, 1907, it may first of all be observed that it only refers to mails found at sea and that is entirely foreign to postal correspondence found on board ships in ports. In the second place, from the standpoint of the peculiar circumstances of the present war, the Government of the United States is aware that that convention, as stated in the memorandum of the allies, has not been signed or ratified by six of the belligerent powers (Bulgaria, Italy, Montenegro, Russia, Serbia, and Turkey); that for that very reason Germany availed itself of Article IX of the convention and denied, so far as it was concerned, the obligatory character in these stipulations; and that for these several reasons the convention possesses in truth but rather doubtful validity in law.

In spite of it all the allied Governments are guided in the case of mails found on board ships in ports by the intentions expressly manifested in the conferences of The Hague sanctioned in the preamble to convention 11, and tending to protect pacific and innocent commerce only. Mails possessing that character are forwarded as quickly as circumstances permit. In regard to mails found on vessels at sea the allied Governments have not for the present refused to observe the terms of the convention reasonably interpreted; but they have not admitted and can not admit that there is therein a final provision legally binding them from which they could not possibly depart. The allied Governments expressly reserve to themselves the right to do so in case enemy abuses and frauds, dissimulations and deceits, should make such a measure necessary.

10. As for the practice previously followed by the powers in the time of former wars, no general rule can easily be seen therein prohibiting the belligerents from exercising on the open seas as to postal correspondence the right of supervision, surveillance, visitation, and, the case arising, seizure and confiscation which international law confers upon them in the matter of any freight outside of the territorial waters and jurisdiction of the neutral powers.

11. On the high seas under international law it is for the belligerents to seek and prevent transportation or other acts by which neu-

tral vessels may lend their cooperation and assistance to hostile operations of the enemy. Now, as has long ago been observed (among others, Lord Stowell in *The Atalanta*, 6 Robinson, 440, 1, English Prize cases, 607; Scott's cases, 780), a few lines of a letter delivered to an enemy may be as useful as or even more useful than a cargo of arms and ammunition to promote his war operations. The assistance rendered in such cases by the vessel carrying such a letter is as dangerous for the other belligerents as the assistance resulting from the transportation of military cargoes. As a matter of fact, experience has in the course of the present war demonstrated the truth of this remark. Hostile acts which had been projected in mails have failed. Dangerous plots, from which even neutral countries are not safe at the hands of the enemy, were discovered in the mails and baffled. Finally the addresses of certain letters which the allies had seen fit to respect have evidenced a satisfaction the hostile character of which removed every doubt as to the significance of those letters.

12. The report adopted by the conference of The Hague in support of convention 11 leaves little doubt as to the former practice in the matter: "The seizure, opening the bags, examination, confiscation, if need be, in all cases delay or even loss, are the fate usually awaiting mail bags carried by sea in time of war." (Second Peace Conference, Acts and Documents, vol. 1, p. 266.)

13. The American note of May 24, 1916, invokes the practice followed by the United States during the Mexican and Civil Wars; the practice followed by France in 1870; by the United States in 1898; by Great Britain in the South African War; by Japan and Russia in 1904; and now by Germany.

14. As regards the proceedings of the German Empire toward postal correspondence during the present war, the allied Governments have informed the Government of the United States of the names of some of the mail steamers whose mail bags have been—not examined, to be sure, but purely and simply destroyed at sea by the German naval authorities. Other names could very easily be added. The very recent case of the mail steamer *Hudikswall* (Swedish), carrying 670 mail bags, may be cited.

15. The allied Governments do not think that the criminal habit of sinking ships, passengers, and cargoes, or abandoning on the high seas the survivors of such calamities, is in the eyes of the Government of the United States any justification for the destruction of the mail bags on board; and they do not deem it to the purpose to make a comparison between these destructive German proceedings and the acts of the allies in supervising and examining enemy correspondence.

16. As to the practice of Russia and of Japan, it may be permitted to doubt that it was at variance with the method of the allied Governments in the present war.

17. The Imperial Russian decree of May 13–25, 1877, for the exercise of the right of visit and capture, provides, paragraph 7: "The following acts which are forbidden to neutrals are assimilated to contraband of war, the carrying * * * of dispatches and correspondence of the enemy." The Russian imperial decree of September 14, 1904, reproduces the same provision. The procedure followed in regard to the mail steamers and the prize decisions bear

witness that public or private mails found on board neutral vessels were examined, landed, and, when occasion arose, seized.

18. Thus in May and July, 1904, postal correspondence carried on the steamships *Osiris* (British) and *Prinz Heinrich* (German) was examined by the Russian cruisers to see whether it contained Japanese correspondence. Thus, again, in July, 1904, the steamer *Calchas* (British), captured by Russian cruisers, had 16 bags of mail that had been shipped at Tacoma by the postal authorities of the United States, seized on board and landed, and the prize court of Vladivostok examined their contents, which it was recognized it could lawfully do. (Russian Prize Cases, p. 139.)

19. As regards the practice of Japan, the Japanese rules concerning prizes, dated March 15, 1904, made official enemy correspondence, with certain exceptions, contraband of war. They ordered the examination of mail bags on mail steamers unless there was on board an official of the post office, making a declaration in writing and under oath that the bags contained no contraband; it was even added that no account should be taken of such a declaration if there existed grave suspicions. On the other hand, the Japanese prize court rules acknowledged the power of those courts in the examination of prize cases to examine letters and correspondence found on board neutral vessels. (Takahashi, International Law Applied to Russo-Japanese War, p. 568.)

20. The French practice during the war of 1870 is found outlined in the naval instructions of July 26, 1870, under which official dispatches were on principle assimilated to contraband, and official or private letters found on board captured vessels were to be sent immediately to the minister of marine. Subsequently the circumstances of war permitted of the rule in additional instructions, under which, if the vessel to be visited was a mail steamer having on board an official of the post office of the Government whose flag she displayed, the visiting officer might be content with that official's declaration regarding the nature of the dispatches.

21. During the South African War the British Government was able to limit its intervention in the forwarding of postal correspondence and mails as far as the circumstances of that war allowed, but it did not cease to exercise its supervision of the mails intended for the enemy.

22. As to the practice followed by the Government of the United States during the American Civil War, particularly in the *Peterhoff* case, cited in the American memorandum of May 24, 1916, the following instructions issued in that case by the Secretary of State of the United States, do not seem to imply anything but the forwarding of correspondence which had been found to be innocent: "I have, therefore, to recommend that in this case, if the district attorney has any evidence to show the mails are simulated and not genuine, it shall be submitted to the court; if there be no reasonable grounds for that belief, then that they be put on their way to their original destination." (Letter of Mr. Seward, Secretary of State, to Mr. Welles, Secretary of the Navy, Apr. 15, 1863; VII Moore's Dig., p. 482.)

23. Finally, as regards the free transit granted to mails by the United States during the Mexican War, one may be allowed to recall the circumstances under which this proceeding was adopted. By

a letter dated May 20, 1846, notified on the following 10th of July, the commander of the U. S. cruiser *St. Mary* announced the blockade of the port of Tampico. Although that measure authorized without doubt the seizure and confiscation of all correspondence for a blockaded port, the American naval authorities, on learning the circumstances of the case, declared "Neutral noncommercial mail packets are free to enter and depart," and it was even added that "Mexican boats engaged exclusively in fishing will be allowed to pursue their labor unmolested." (British State Papers, vol. 35, 1846–47.)

24. It seems difficult to compare the blockade of the port of Tampico in 1846 with the measures taken by the allies in the course of this war to reduce the economic resistance of the German Empire, or to find in the method then adopted by the United States a precedent which condemns the practice now put in use by the allied Governments.

25. To waive the right to visit mail steamers and mail bags intended for the enemy seemed in the past (Dr. Lushington, Naval Prize Law, Introd., p. vii) a sacrifice which hardly could be expected of belligerents. The allied Governments have again noted in their preceding memorandum how and why, relying on certain declarations of Germany, they had thought in the course of the second peace conference of 1907 they could afford to waive that right. They have also drawn the attention of the Government of the United States to the fraudulent use Germany hastened to make of this waiver of the previous practices above mentioned.

26. After pointing to a certain number of specific cases where American interests happened to be injured from the postal supervision exercised by the British authorities forming the subject of the special memorandum of the Government of His Majesty dated July 20, 1916, the Government of the United States was pleased to make known its views as to what is to be and is not to be recognized as not possessing the charter of postal correspondence.

27. In this respect the Government of the United States admits that shares, bonds, coupons, and other valuable papers; money orders, checks, drafts, bills of exchange, and other negotiable papers, being the equivalent of money, may, when included in postal shipments, be considered as of the same nature as merchandise and other property, and therefore be also subjected to the exercise of belligerent rights.

28. Yet the American memorandum adds that correspondence, including shipping documents, lists of money orders, and documents of this nature, even though referring to shipments to or exports by the enemy, must be treated as mail and pass freely unless they refer to merchandise on the same ship that is liable to capture.

29. As regards shipping documents and commercial correspondence found on neutral vessels, even in an allied port and offering no interest of consequence as affecting the war, the allied Governments have instructed their authorities not to stop them but to see that they are forwarded with as little delay as possible. Mail matter of that nature must be forwarded to destination as far as practicable on the very ship on which it was found or by a speedier route, as is the case for certain mails inspected in Great Britain.

30. As for the lists of money orders, to which the Government of the United States assigns the character of ordinary mail, the allied Governments deem it their duty to draw the attention of the Government of the United States to the following practical consideration:

31. As a matter of fact the lists of money orders mailed from the United States to Germany and Austria-Hungary correspond to moneys paid in the United States and payable by the German and Austro-Hungarian post offices. Those lists acquaint those post offices with the sums that have been paid there which, in consequence, they have to pay to the addressees. In practice such payment is at the disposal of such addressees and is effected directly to them as soon as those lists arrive, and without the requirement of the individual orders having come into the hands of the addressees. These lists are thus really actual money orders transmitted in lump in favor of several addressees. Nothing, in the opinion of the allied Governments, seems to justify the liberty granted to the enemy country so to receive funds intended to supply by that amount its financial resisting power.

32. The American memorandum sees fit firmly to recall that neutral and belligerent rights are equally sacred and must be strictly respected. The allied Governments, so far as they are concerned, wholly share that view. They are sincerely striving to avoid an encroachment by the exercise of their belligerent rights on the legitimate exercise of the rights of innocent neutral commerce, but they hold that it is their belligerent right to exercise on the high seas the supervision granted them by international law to impede any transportation intended to aid their enemy in the conduct of the war and to uphold his resistance. The rights of the United States as a neutral power can not, in our opinion, imply the protection granted by the Federal Government to shipments, invoices, correspondence, or communications in any shape whatever having an open or concealed hostile character and with a direct or indirect hostile destination, which American private persons can only effect at their own risk and peril. That is the very principle which was expressly stated by the President of the United States in his neutrality proclamation.

33. Furthermore, should any abuses, grave errors, or derelictions committed by the allied authorities charged with the duty of inspecting mails be disclosed to the Governments of France and Great Britain, they are now as they ever were ready to settle responsibility therefor in accordance with the principles of law and justice which it never was and is not now their intention to evade.

The Government has had a lengthy correspondence touching the matter of censorship of telegrams and cablegrams, transmitted by wireless and cable, which need not here be reproduced. The points of controversy indicate the difficulty of any neutral country securing unbiased information as news when these avenues of transmission are not open.

Another source of controversy with England grows out of the exercise of the power to take from American steamships German citizens:

THE SECRETARY OF STATE TO AMBASSADOR W. H. PAGE.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE.
Washington, February 23, 1916.

Mr. Lansing informs Mr. Page that the department is advised by American consuls in Hongkong, Nagasaki, and Shanghai, and by the owners of the American steamship *China*, that on the 18th instant the British cruiser *Laurentic* stopped the *China* on the high seas, about 10 miles from the entrance to the Yangtzekiang, boarded her with an armed party, and, despite the captain's protest, removed from the vessel 28 Germans, 8 Austrians, and 2 Turks, including physicians and merchants, and took them to Hongkong, where they are detained as prisoners in the military barracks. As it is understood that none of the men taken from the *China* were incorporated in the armed forces of the enemies of Great Britain, the action of the *Laurentic* must be regarded by this Government as an unwarranted invasion of the sovereignty of American vessels on the high seas. After the notice given to the British Government of this Government's attitude in the *Piepenbrink* case in March last, which was based upon the principle contended for by Earl Russel in the *Trent* case, this Government is surprised at this exercise of belligerent power on the high seas far removed from the zone of hostile operations. Ambassador Page is directed to present this matter to the Government of Great Britain at once and to insist vigorously that if facts are as reported orders be given for the immediate release of the persons taken from the *China*.

(File No. 341.622a/84.)

AMBASSADOR W. H. PAGE TO THE SECRETARY OF STATE.

No. 3259.] AMERICAN EMBASSY,
London, March 17, 1916.

SIR: With reference to the department's telegram No. 2924, of February 23, 1916, protesting against the removal of 38 enemy subjects of Great Britain by the British ship *Laurentic* from the steamship *China* on the high seas off the entrance to the Yangtze River, I have the honor to inclose herewith a copy of a note, dated the 16th instant, from the foreign office in reply to the representations I made to Sir Edward Grey in the premises.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

THE BRITISH SECRETARY OF STATE FOR FOREIGN AFFAIRS TO AMBASSADOR W. H. PAGE.

FOREIGN OFFICE, *March 16, 1916.*

YOUR EXCELLENCY: His Majesty's Government have given the most careful consideration to the memorandum which your excellency was good enough to communicate to me on the 24th ultimo, conveying

a protest from the United States Government against the removal of 38 enemy subjects by His Majesty's ship *Laurentic* from the steamship *China* on the high seas off the entrance to the Yangtse River, and I now have the honor to offer the following observations as an expression of the views of His Majesty's Government in regard to the matter.

The latest attempt to define by common agreement the limits within which a belligerent naval power may remove enemy persons from neutral ships on the high seas is represented by article 47 of the Declaration of London, 1909. This article permitted the arrest of such persons if "embodied in the armed forces of the enemy," without regard to the destination of the ship on which they were found traveling. The commentary on article 45 of the declaration contained in the report of the drafting committee of the London naval conference states that on practical, not legal, grounds it was agreed that the terms "embodied in the armed forces of the enemy" should be considered as not including reservists not yet attached to their military units.

At the beginning of the war His Majesty's Government adhered to articles 45 and 47 of the Declaration of London, as interpreted by the report of the drafting committee. They took this step as a matter of convenience, being at liberty, as the declaration was an unratified instrument, to cancel at any time their adherence, provided always that their subsequent action did not conflict with the general principles of international law. When the German authorities began to remove able-bodied persons of military age from the occupied portions of France and Belgium, His Majesty's Government, as indicated in the circular note which I had the honor to address on the 4th November, 1914, to the representatives of neutral powers in London, felt that they could no longer accept the restrictive interpretation placed for practical reasons on the terms of article 47 of the Declaration of London by the report of the drafting committee, and that they must arrest all enemy reservists found on board neutral ships on the high seas, no matter where they might be met.

I am aware that the United States Government, after their suggestion early in the war that the belligerent powers should adopt the Declaration of London in its entirety as a code of international naval law did not find general acceptance, having declared that they no longer consider the declaration as being in force. I have referred at some length to the bearings of the declaration on the position of His Majesty's Government in this question, because article 47 represents the latest, if not the only, attempt to arrive at a definition, by common consent of the chief maritime nations, of the law in regard to the matter. The attempt was necessarily conditioned by the experience of previous wars, and the definition was reached after weighing the claims and the convenience of neutral shipping against the importance to belligerent powers, as shown by the experience of previous wars, of preventing enemy subjects from proceeding to their destination and pursuing the hostile purposes for which they were organized.

It is evident, however, from the foregoing observations that the principle (often contended for in the past by certain continental nations) that there are certain classes of persons who are not protected by a neutral flag on the high seas and may therefore, without

any invasion of the sovereign rights of the neutral, be removed from a neutral ship is now generally admitted. The carriage of such persons may in some cases amount to unneutral service, rendering the ship liable to condemnation; but even when this is not so the removal of such persons from a neutral ship by a belligerent does not justify any complaint by the neutral State concerned. The question in the present case is, therefore, whether the character and position of the persons removed from the *China* were such as to bring the case within the principle enunciated above.

The present war has shown that the belligerent activity of the enemies of this country is by no means confined to the actual theaters of military and naval operations and that there is no limit to the methods by which Germany in particular seeks to secure a victory for her arms. The hostile efforts of the enemy have shown, and continue to show, themselves on neutral soil in many parts of the world in political intrigues, revolutionary plots, schemes for attacking the sea-borne trade of this country and her allies, endeavors to facilitate the operations of ships engaged in this task, and in criminal enterprises of different kinds directed against the property of neutrals and belligerents alike. War has in effect been extended far beyond the bounds of the area in which opposing armies maneuver, and an unscrupulous belligerent may inflict the deadliest blows on his enemy in regions remote from actual fighting. It may be recalled that a certain Lieut. Robert Fay, of the German Army, was reported in the press last autumn to have been detected experimenting with bombs designed to destroy merchant ships leaving America and operating in the interests of the enemies of Germany. He was said to have admitted that he was sent by the German authorities to the United States expressly for this purpose. His Majesty's Government are not aware what degree of truth there may be in this story, but numerous incidents in America and elsewhere have shown that the facts may be as stated and may be typical.

It is then evidently of the greatest importance for a belligerent power to intercept on the high seas not only mobilized members of the opposing army who may be found traveling on neutral ships, but also those agents whom the enemy sends to injure his opponent abroad or whose services he enjoys without having himself commissioned them. Practical considerations from the belligerents' point of view have changed, and the change necessarily implies a modification in the precise description of enemy subjects whom it is lawful to arrest, supposing such a precise description can be said to have existed in any binding form.

I may add that the action of the United States Government in forwarding requests for safe conduct for agents of States at war with this country whose actions had been such that their continued presence in the United States could no longer be tolerated affords a strong indication that the right to remove certain classes of persons from neutral ships can, in the circumstances of this present war, not be confined to persons embodied in the armed forces of a belligerent.

I may add for the confidential information of the Governments of the United States that from actual occurrences and from reliable information received it has been definitely established that the Germans resident in Shanghai have been engaged for some time past in the collection of arms and ammunition, both for clandestine transmission to

India and, if possible, for the arming of a ship to play the part of a far eastern *Moewe*. His Majesty's Government were able to cope with this activity to a considerable extent and obtained the arrest of various German agents caught in the act of attempting to smuggle arms out of Shanghai; further, the Germans became aware that His Majesty's Government knew of their plots. The commander in chief, China station, received information that owing to this fact the Germans were planning to shift the center of their activity from Shanghai to Manila. Subsequently he was definitely informed that 35 Germans had planned to leave Shanghai in the steamship *China* and proceed to Manila.

His Majesty's ships were sent to patrol off the mouth of the Yangtze with the view of intercepting this party. The date of the *China's* departure was more than once postponed, but she eventually sailed, was intercepted by His Majesty's ship *Laurentic* and found to have on board Germans and Austrians corresponding to those concerning whom information, as mentioned above, had been received. The *Laurentic*, therefore, had no hesitation in removing them. The next ostensible port of call of the *China* was Nagasaki, a convenient place at which to transfer to another vessel proceeding to Manila.

It may be added that subsequent information fully confirms that the movement of the body of Germans in question was an integral part of the plot referred to above.

I do not think it will be disputed that persons of this description must be placed within the category of individuals who may, without any infraction of the sovereignty of a neutral state, be removed from a neutral vessel on the high seas. The object of their journey was to find another neutral asylum in which they might continue their operations against the interests of this country. The acts which they desired to perform upon the soil of the United States were such as possibly to compromise the neutrality of that country or to constitute an offense against its criminal laws. They were in effect persons whose past actions and future intentions deprived them of any protection from the neutral flag under which they were sailing.

In your excellency's note reference is made to the case of the *Trent*. I venture to hope that the preceding observations show clearly that the present case is of an entirely different nature to that on which the United States Government rely. At the date when the *Trent* case occurred no agreement had been reached as to the claim put forward by certain countries that a belligerent is entitled to remove certain classes of individuals from a neutral ship without bringing the vessel in for adjudication in the prize court; since then, as I have pointed out above, a considerable measure of agreement had been reached on this point. In any case the nature of the persons concerned in the episode of the *Trent* was entirely different from that of the individuals removed from the *China*. Messrs. Slidell and Mason were proceeding to Europe, according to their contention, as the diplomatic representatives of a belligerent; at that time the suggestion that the functions of a diplomatic representative should include the organizing of outrages upon the soil of the neutral country to which he was accredited was unheard of, and the removal of the gentlemen in question could only be justified on the ground that their representative character was sufficient to bring them within the classes of persons whose removal from a neutral vessel was justifiable.

The distinction between such persons and German agents whose object is to make use of the shelter of a neutral country in order to foment risings in British territory, to fit out ships for the purpose of preying on British commerce, and to organize outrages in the neutral country itself is obvious.

It is hardly necessary for me to state that it is far from the wish and intention of His Majesty's Government to take any action involving an invasion of the sovereign rights of the United States Government; the above observations will have made it clear that in view of my Government no such invasion was involved in the action of His Majesty's ship *Laurentic*, and I feel confident that after the foregoing explanations in regard both to the general question involved and to the removal of enemy subjects from the *China* the United States Government will not feel disposed further to contend that this action was not justified.

I have, etc.,

E. GREY.

Our latest effort to insure neutral rights upon the high seas is the following proposed code for the freedom of the seas. Coming at this time it can only serve as a suggestion for the future:

INTERNATIONAL LAW INSTITUTE RECEIVES DRAFT MADE AT LANSING'S SUGGESTION—BARS COMMERCE BLOCKADE—NO MERCHANT SHIP TO BE SEIZED OR DESTROYED IF IT BEARS VISÉED PAPERS.

HABANA, CUBA, *January 22.*

A code of rules of maritime neutrality which should govern the relations between belligerents and neutrals, prepared at the suggestion of Secretary of State Robert Lansing of the United States, was submitted to the American Institute of International Law in annual session here to-day.

The proposed regulations practically provide for freedom of the seas in time of war. Commercial blockades would be forbidden and mails inviolate; merchant ships without contraband, whether of belligerent or neutral registry, would be unmolested if they bore viséed papers; right of search at sea would be abolished. The mandates would be enforced by a neutral conference, with authority to take "severe measures" against violators.

The code was drafted by Dr. Alejandro Alvarez, secretary general of the institute, and who formerly was juriconsult to the Chilean foreign office and counselor to the Chilean legations abroad. It will be referred to the national society of international law in each of the 21 American Republics, and final action on it will be taken by the institute at its next annual meeting.

The code follows:

CHAPTER I.

GENERAL DECLARATIONS.

ARTICLE 1. Neutrality is the situation of States which, in the course of a war, are not participants therein.

Neutrality, especially maritime neutrality, must hereafter be regulated not merely on the basis of the rights of the belligerents but

especially on that of the rights of neutrals, by safeguarding commercial liberty and releasing neutrals from the useless burdens resting on them with a view to observing neutrality. This new conception of neutrality is demanded by reason of the bonds of solidarity which exist between all the members of the society of nations.

ART. 2. In case of war between two or more countries the rest of the States must refrain from increasing the number of belligerents.

If not able to prevent the conflict, they must do all they can to put an early end to it, neutrality not merely being an impartial duty between belligerents equally respectful of right but a duty of pacification toward mankind.

CHAPTER II.

THE CONFERENCE OF NEUTRALS.

ART. 3. When war is declared, the neutral States of the entire world shall, upon the request of the Administrative Council of the Permanent Hague Court, meet in conference, in order:

1. To take all necessary measures to maintain the freedom of commerce and navigation of the neutral countries.

2. To determine the list of articles to be regarded as contraband.

3. To see especially to the observance of all neutral rights and duties established in these present rules, and to exercise any other powers granted them by the said same rules.

ART. 4. The conference of neutrals shall gather in The Hague Peace Palace unless the council directs otherwise.

The belligerents shall be invited to send representatives, who may take active part in the discussions and have the right to vote.

Resolutions shall be adopted by a majority vote and bind the minority.

ART. 5. In important cases the conference may authorize severe measures against the belligerent or against the neutrals refusing to respect the rights and duties of neutrality.

Such measures may be public blame, pecuniary indemnity, commercial boycott, and even the use of an international force to be determined by the conference.

ART. 6. The conference of neutrals may organize in any number of commissions thought necessary, one of these commissions to be especially designated to consider such pecuniary indemnities as are referred to in these rules.

CHAPTER III.

FREEDOM OF COMMERCE IN TIME OF WAR.

ART. 7. The commercial blockade, both of the belligerent ports and the maritime zones along belligerent coasts, is formally forbidden, no matter what the means by which the blockade is to be effected.

ART. 8. Private property in the open sea is inviolable. Belligerent and neutral merchant vessels may in no case be confiscated, nor sunk, under any pretext whatever.

If carrying contraband, this may be confiscated or destroyed by the captor.

ART. 9. The right of search is abolished. The local authorities of each country shall visé the papers of merchant vessels leaving port for a belligerent port.

Belligerent vessels may not stop neutral merchant vessels or merchant vessels belonging to the other belligerent except to demand examination of the vessel's papers. Despite the regularity of the said papers, they (belligerent vessels) may proceed to the search of merchant vessels. If shown that the vessel does not carry contraband, the searching vessel shall be condemned to pay to the vessel searched a fine to be determined by the conference of neutrals; and in case the vessel searched carries contraband, the country whose authorities viséed the false passport shall be condemned to pay an indemnity to be determined by the said conference of neutrals.

Vessels not carrying duly viséed papers may be searched conformable to present international practice without the right to an indemnity.

ART. 10. Belligerent merchant vessels may not refuse to carry from one neutral port to another neutral port persons or merchandise under pretext that they (persons or merchandise) belong to a nation with which their (belligerent merchant vessels) country is at war.

Exception to be made regarding persons who, by reason of their age or condition, might serve their country and who might be presumed to leave in order to join the enemy forces of the country to which the vessel belongs.

ART. 11. The official or private postal correspondence of neutrals or belligerents found in the open sea on board a neutral or enemy vessel is inviolable. It may not be seized, even under the pretext of the police right of warships over merchant ships of their own nationality.

CHAPTER IV.

RIGHTS AND DUTIES OF BELLIGERENTS.

ART. 12. Belligerents are held to respect the sovereign rights of neutral powers and to refrain within neutral territory or neutral waters from committing acts which, if tolerated by neutral powers, would constitute a breach of neutrality.

ART. 13. Belligerents are especially forbidden to make of neutral ports and waters the base for naval operations against their adversaries, and, particularly, to install therein wireless stations or other apparatus intended as a means of communication with belligerent land or naval forces.

ART. 14. Regarding the sojourn, victualing, and provisioning of belligerent vessels in the neutral ports, roadways, and jurisdictional waters, distinction must be made between warships and merchant vessels.

The following dispositions concerning warships are also applicable:

(1) To ordinary auxiliary vessels.

(2) To merchant vessels transformed into war vessels, conformable to Convention VII of The Hague.

(3) To merchant vessels giving continuous or occasional aid to the war vessels of their country, if they have not been transformed into war vessels according to the said convention.

(4) To neutral vessels giving continuous or occasional aid to belligerent vessels, and the following dispositions regarding merchant vessels are likewise applicable to vessels which have been auxiliary vessels, but retransformed into merchant vessels according to article 18.

ART. 15. Belligerent warships shall not have access to the ports, roadways, and territorial waters of neutral powers, except in the duly justified case of force majeure.

They may not there repair beyond what is indispensable to the safety of their navigability, and not in any manner whatever to increase their military capacity. The neutral authorities shall establish the nature of repairs to be effected, and these must be carried out as rapidly as possible. They must depart immediately after the force majeure has ceased to exist.

It is especially forbidden said war vessels to renew or to increase their military provision or armaments or to complete their crews.

The need of revictualing, of fuel, or provisions does not constitute a force majeure permitting a warship to enter the ports, roadways, or territorial waters of neutral powers.

ART. 16. Belligerent merchant vessels may take fuel and provisions on board in neutral ports subject to the conditions especially determined by the local authorities, or, wanting these special conditions, in the same manner as in time of peace.

ART. 17. If proven that the merchant vessel taking fuel or provisions on board in a neutral port has passed all or part of such provisions to a belligerent warship within or without the territorial waters of the neutral power no fuel or provisions shall thereafter be furnished in such country to any ship of the company to which belongs the vessel committing such infraction.

ART. 18. If, ascertained by its installations or other facts, a merchant vessel is suspected of furnishing to the warships of its country provisions it asks for, the local authorities may, according to the circumstances, regard it as a naval auxiliary, and on this account refuse to it any provisions or request the agent of the company to which the vessel belongs to furnish bail guaranteeing that the said vessel will neither help nor assist the belligerent.

When a vessel is suspected, the case must be notified at once to all other countries, through the medium of the conference of neutrals, especially so if the vessel has furtively left a port of the country.

ART. 19. Belligerent auxiliary vessels retransformed into merchant vessels shall be admitted as such into neutral ports, provided—

1. That the retransformed vessel has not violated the neutrality of the country where it arrives;

2. That the retransformation has been effected in the ports or in the jurisdictional waters of the country to which the vessel belongs, or in the ports of its allies;

3. That such retransformation be effective; that is to say, that the vessel, neither through its crew nor through its installations, shows that it can, as an auxiliary, as before, give aid to the armed fleets of its country;

4. That the Government of the country to which the vessel belongs notify to all the nations interested, through the medium of the conference of neutrals, the names of the auxiliary vessels which shall have lost this quality, to resume that of merchant vessels; and

5. That the said Government agree that in the future the said vessels shall not again, as auxiliaries, be destined to the service of the armed fleet.

ART. 20. Aeroplanes, dirigibles, or airships of the belligerent countries may not fly over the territory or over the jurisdictional waters of the neutral powers. Infraction of this rule entitles to the confiscation of the craft, if possible, and, at any rate, to an indemnity to be determined by the conference of neutrals.

CHAPTER V.

RIGHTS AND DUTIES OF NEUTRALS.

ART. 21. In a war distinction must be made between the acts of aid on the part of neutral States and acts of commerce on the part of the individual; the former only are contrary to neutrality.

Conveyance, on whatever ground, made directly or indirectly by a neutral power to a belligerent power, of warships, munitions, or war material, is forbidden.

ART. 22. If a neutral power, notified of the opening of hostilities, learns that a belligerent warship is within one of its ports, roadways, or within its territorial waters, it must inform the said vessel that it must clear within 24 hours or within the time prescribed by the local law.

ART. 23. The neutral Government must use all available means to prevent within its jurisdiction the equipping or arming of any vessel which it has reason to believe is intended for cruising purposes or for aiding in hostile operations against a power with which it is at peace. It is likewise bound to exercise the same care in order to prevent the departure from its jurisdiction of any vessel intended for cruising purposes or for aiding in hostile operations, and which vessel, within the said jurisdiction, might have been adapted, in part or in its entirety, to war purposes.

ART. 24. Neutral powers are not bound to prevent the exportation or the transit, for the account of the one or the other belligerent, of arms, munitions, and, in general, of anything that may be of any use to an army or to a fleet.

ART. 25. Neutral Governments must prevent agents of the belligerent Governments from enrolling, within their territory, their (the belligerents') nationals, and especially to prevent their (the nationals) being summoned under the penalty of being declared deserters, should they not answer the summons.

They shall not, however, prohibit the voluntary departure of the nationals of the belligerent States, even when organized on a large scale.

Neutral Governments might, however, forbid the voluntary departure, for the purpose of joining the forces of one of the belligerents, of persons who, being its (the neutral's) nationals, are also nationals of one of the belligerent countries, except by declaring that in enrolling they intende to lose the nationality of the country from which they leave.

ART. 26. In war time the use of the telegraphs or cables of neutral powers by the nationals of the belligerent powers shall be subject to measures edicted by the local authorities.

ART. 27. Neutral powers must use all available means to prevent violation of their neutrality within their ports or roadways and within their territorial waters.

ART. 28. Belligerent war or merchant vessels entering the ports, roadways, or jurisdictional waters of a neutral country, without the right to do so according to the provisions of these rules, may be interned by the neutral country.

A vessel shall be deemed interned from the moment it is ordered interned by the neutral local authority, even in case a request to reconsider is made by the infracting vessel.

ART. 29. Interning of a vessel and of its crew must be effected in the place and in the manner deemed most appropriate by the interning country.

The costs of internment are borne by the infracting vessel.

The country which interns a vessel is not responsible for injuries sustained by the interned vessel, except in the case of gross negligence.

ART. 30. When a merchandise-bearing vessel is to be interned in a neutral country, the part of the merchandise destined for the neutral country must be unloaded and the part destined for other ports must be transshipped.

ART. 31. In case where, in consequence of naval operations taking place without the jurisdictional waters of a country, there should be killed or wounded, provisional hospital vessels, under the control and watchfulness of the neutral Government, may be sent to the scene of the action, and the said vessels shall to the end of their mission enjoy absolute inviolability.

The said wounded or wrecked shall not be interned, but given their freedom as soon as possible.

CHAPTER VI.

OBSERVANCE AND SANCTIONS OF THE LAWS OF NEUTRALITY AND BELLIGERENCY.

ART. 32. The belligerent who violates the rights of neutrals established by these rules or by the conference of neutrals shall pay to the State interested a pecuniary indemnity to be determined by the said conference.

In case a belligerent commits at the same time and against the same country several infractions of neutrality, each of such infractions must be indemnified separately.

The conference of neutrals shall determine the manner of payment of the payment of the indemnity, and in case of need determine the measures and means to which neutrals may resort to secure payment of the amount due by the infracting belligerent.

ART. 33. In case of war the local authorities of neutral countries are especially charged with:

1. Seeing to the observance, within the territory of the country, of the resolutions of the conference of neutrals.

2. Settling provisionally all controversies of an urgent character that may arise between the belligerents and the country where reside the authorities, especially controversies concerning the interning of vessels, without prejudice as to what may be finally decided by the said authorities.

3. Viséeing the papers of merchant vessels leaving the port of the country. The said documents shall certify as to the nature of the merchandise carried by the vessels, so as to liberate them from the right to search.

4. Deciding questions concerning requests for the embarkation on board a merchant vessel of a belligerent country of nationals of the other belligerent country or countries, according to article 10.

ART. 34. The conference of neutrals referred to in chapter 2 might appoint commissions composed of neutrals, whose duty it would be to watch in each belligerent country over the manner in which the laws and customs of war are there observed.

Upon the basis of the information and reports of these commissions, the said conference, in the name of all the neutral countries, may, if deemed appropriate, protest against the violation of the laws and usages of war.

Secretary Lansing addressed a memorandum to Dr. Scott, as follows:

"At the first meeting of the institute I had the honor to direct attention to the imperfect code of rules which define and govern the relations between belligerents and neutrals. These rules, which have grown up during the past 125 years, and have been in some cases differently interpreted by courts of different countries, have been frequently found inadequate to meet new conditions of warfare, and as a result every war has changed, modified, or added to the rules, generally through the process of judicial decisions.

"The prize courts of belligerents have thus become the interpreters of belligerent rights and neutral obligations, and their interpretations evidence an unconscious prejudice arising from overappreciation of the needs of the belligerent. Writers on international law have relied upon the prize-court decisions in dealing with the subject of neutrality, so that they have laid down rules formulated indirectly from a belligerent's point of view.

"In addition to these influences affecting a code to govern the conduct and treatment of neutrals, international conferences and congresses have generally confided the drafting of rules relating to belligerent and neutral rights to military and naval experts who naturally approach the subject from the belligerent's standpoint. Thus judicial decisions, text writers, and international agreements have given all the advantage to the belligerent, and have shown little regard for the rights of neutrals.

"It would appear that it is time to reverse this process of treatment of the subject of neutrality and to deal with it from the point of view of the neutral.

"I would, therefore, suggest that a committee be appointed to study the problem of neutral rights and neutral duties, seeking to formulate in terms the principle underlying the relations of belligerency to neutrality rather than the express rules governing the conduct of a nation at war to a nation at peace.

"I would further suggest that the subject might be advantageously divided into two parts, namely, the rights of neutrals on the high seas, and the duties of neutrals dependent upon territorial jurisdiction.

"In view of the past year and a half of war, the present time seems particularly opportune to study this question, and this institute, being composed of members from neutral nations, is especially

fitted to do this from the proper point of view, and with the definite purpose of protecting the liberty of neutrals from unjustifiable restrictions on the high seas and from the imposition of needless burdens in preserving their neutrality on land."

63. On the 25th of January, 1917, radical Admiralty action was taken by England in which a wide area of the North Sea was declared dangerous for shipping. The real reason for the change was not announced. The action was made public two days later in the following language:

American Embassy, London, has received information from the British Government that on account of belligerent operations the undermentioned area in the North Sea is dangerous to shipping:

Area comprising all the waters, except Netherlands and Danish territorial waters, lying to the southwestward and eastward of a line commencing 4 miles from the coast of Jutland, in latitude 56° N., longitude 8° E. from Greenwich, and passing through the following positions: Latitude 56° N., longitude 6° E., latitude 54° N., longitude 45′ E., thence to a position in latitude 53° 37′ N., longitude 5° E., 7 miles off the coast of the Netherlands. (New York Times, Jan. 27, 1917.)

On the 16th of February a new Admiralty decree suggesting intensified action in the North Sea was announced, in which it was officially declared the zone will be made perilous by operations against the enemy.

Ambassador Page's dispatch reads:

Following revised notice, dated February 13, received from the foreign office respecting dangerous area in North Sea, which is intended to replace notice of January 25, 1917:

"Caution with regard to dangerous area.

"In view of the unrestricted warfare carried on by Germany at sea by means of mines and submarines not only against the allied powers, but also against neutral shipping, and the fact that merchant ships are constantly sunk without regard to the ultimate safety of their crews, His Majesty's Government gives notice that on and after the 7th of February, 1917, the undermentioned area in the North Sea will be rendered dangerous to all shiping by operations against the enemy, and it should therefore be avoided.

"Dangerous area: The area comprising all the waters, except Netherland and Danish territorial waters, lying to the southward and eastward of a line commencing 4 miles from the coast of Jutland in latitude 56° north, longitude 8° east, and passing through the following positions: Latitude 56° north, longitude 6° east, and latitude 54° 45′ north, longitude 4° 30′ east; thence to a position in latitude 53° 27′ north, longitude 5° east, 7 miles from the coast of the Netherlands.

"To meet the needs of the coastal traffic which can not strictly confine itself to the territorial waters owing to navigational difficulties, it will be safe to navigate between the coast of Jutland and a line passing through the following positions: Latitude 56° north, longitude 8° east, and latitude 55° 40′ north, longitude 8° east; latitude 55° 36′

north, longitude 7° 15′ east; latitude 55° 32′ north, longitude 7° 15′ east; latitude 55° 22′ north, longitude 7° 45′ east; latitude 55° 19′ north, longitude 8° 4′ east; latitude 55° 22′ north, longitude 8° 19′ east, which is 3 miles from the coast of Fano Island.

"Allso a safe passage will be left along the Netherland coast southward of a line joining the following positions: Latitude 53° 27′ north, longitude 5° east; latitude 53° 31½′ north, longitude 5° 30′ east; latitude 53° 34′ north, longitude 6° east; latitude 53° 39′ north, longitude 6° 23′ east." (New York Times.)

The press, February 22, 1917, carries another order in council which declares neutral vessels must be examined by allies or face confiscation.

The order in council is as follows:

Whereas these enemy orders are in flagrant contradiction of the rules of international law, the dictates of humanity, and treaty obligations of the enemy, and render it necessary for further measures to be adopted in order to maintain the efficiency of those previously taken to prevent commodities reaching or leaving enemy countries;

His Majesty has ordered that the following directions shall be observed respecting all vessels which sail from their port of departure after the date of this order:

"First. A vessel which is encountered at sea on the way to or from a port in any neutral country affording means of access to enemy territory without calling at a port in British or allied territory shall, until the contrary is established, be deemed to be carrying goods with enemy destination or of enemy origin, and shall be brought in for examination, and, if necessary, for adjudication before a prize court.

"Second. Any vessel carrying goods with enemy destination or of enemy origin shall be liable to capture and condemnation, in respect of the carriage of such goods: *Provided*, That in the case of any vessel which calls at an appointed British or allied port for examination of her cargo no sentence of condemnation shall be pronounced except on carriage of goods of enemy origin or destination, and no such presumption as laid down in article 1 shall arise.

"Third. Goods which are found on examination of any vessel to be goods of enemy origin or destination shall be liable to condemnation."

THE "STATE OF WAR" WITH GERMANY PLACED BEFORE THE COUNTRY BY THE PRESIDENT.

ADDRESS OF THE PRESIDENT OF THE UNITED STATES DELIVERED AT A JOINT SESSION OF THE TWO HOUSES OF CONGRESS APRIL 2, 1917.

GENTLEMEN OF THE CONGRESS:

I have called the Congress into extraordinary session because there are serious, very serious, choices of policy to be made, and made immediately, which it was neither right nor constitutionally permissible that I should assume the responsibility of making.

On the third of February last I officially laid before you the extraordinary announcement of the Imperial German Government that on and after the first day of February it was its purpose to put aside all restraints of law or of humanity and use its submarines to sink every vessel that sought to approach either the ports of Great Britain and Ireland or the western coasts of Europe or any of the ports controlled by the enemies of Germany within the Mediterranean. That had seemed to be the object of the German submarine warfare earlier in the war, but since April of last year the Imperial Government had somewhat restrained the commanders of its undersea craft in conformity with its promise then given to us that passenger boats should not be sunk and that due warning would be given to all other vessels which its submarines might seek to destroy, when no resistance was offered or escape attempted, and care taken that their crews were given at least a fair chance to save their lives in their open boats. The precautions taken were meagre and haphazard enough, as was proved in distressing instance after instance in the progress of the cruel and unmanly business, but a certain degree of restraint was observed. The new policy has swept every restriction aside. Vessels of every kind, whatever their flag, their character, their cargo, their destination, their errand, have been ruthlessly sent to the bottom without warning and without thought of help or mercy for those on board, the vessels of friendly neutrals along with those of belligerents. Even hospital ships and ships carrying relief to the sorely bereaved and stricken people of Belgium, though the latter were provided with safe conduct through the proscribed areas by the German Government itself and were distinguished by unmistakable marks of identity, have been sunk with the same reckless lack of compassion or of principle.

I was for a little while unable to believe that such things would in fact be done by any government that had hitherto subscribed to the humane practices of civilized nations. International law had its origin in the attempt to set up some law which would be respected and observed upon the seas, where no nation had right of dominion and where lay the free highways of the world. By painful stage after stage has that law been built up, with meagre enough results, indeed, after all was accomplished that could be accomplished, but always with a clear view, at least, of what the heart and conscience of mankind demanded. This minimum of right the German Government has swept aside under the plea of retaliation and necessity and because it had no weapons which it could use at sea except these which it is impossible to employ as it is employing them without throwing to the winds all scruples of humanity or of respect for the understandings that were supposed to underlie the intercourse of the world. I am not now thinking of the loss of property involved, immense and serious as that is, but only of the wanton and wholesale destruction of the lives of non-combatants, men, women, and children, engaged in pursuits which have always, even in the darkest periods of modern history, been deemed innocent and legitimate. Property can be paid for; the lives of peaceful and innocent people cannot be. The present German submarine warfare against commerce is a warfare against mankind.

It is a war against all nations. American ships have been sunk, American lives taken, in ways which it has stirred us very deeply to learn of, but the ships and people of other neutral and friendly nations have been sunk and overwhelmed in the waters in the same way. There has been no discrimination. The challenge is to all mankind. Each nation must decide for itself how it will meet it. The choice we make for ourselves must be made with a moderation of counsel and a temperateness of judgment befitting our character and our motives as a nation. We must put excited feeling away. Our motive will not be revenge or the victorious assertion of the physical might of the nation, but only the vindication of right, of human right, of which we are only a single champion.

When I addressed the Congress on the twenty-sixth of February last I thought that it would suffice to assert our neutral rights with arms, our right to use the seas against unlawful interference, our right to keep our people safe against unlawful violence. But armed neutrality, it now appears, is impracticable. Because submarines are in effect outlaws when used as the German submarines have been used against merchant shipping, it is impossible to defend ships against their attacks as the law of nations has assumed that merchantment would defend themselves against privateers or cruisers, visible craft giving chase upon the open sea. It is common prudence

in such circumstances, grim necessity indeed, to endeavour to destroy them before they have shown their own intention. They must be dealt with upon sight, if dealt with at all. The German Government denies the right of neutrals to use arms at all within the areas of the sea which it has proscribed, even in the defense of rights which no modern publicist has ever before questioned their right to defend. The intimation is conveyed that the armed guards which we have placed on our merchant ships will be treated as beyond the pale of law and subject to be dealt with as pirates would be. Armed neutrality is ineffectual enough at best; in such circumstances and in the face of such pretensions it is worse than ineffectual: it is likely only to produce what it was meant to prevent; it is practically certain to draw us into the war without either the rights or the effectiveness of belligerents. There is one choice we cannot make, we are incapable of making: we will not choose the path of submission and suffer the most sacred rights of our nation and our people to be ignored or violated. The wrongs against which we now array ourselves are no common wrongs: they cut to the very roots of human life.

With a profound sense of the solemn and even tragical character of the step I am taking and of the grave responsibilities which it involves, but in unhesitating obedience to what I deem my constitutional duty, I advise that the Congress declare the recent course of the Imperial German Government to be in fact nothing less than war against the government and people of the United States; that it formally accept the status of belligerent which has thus been thrust upon it; and that it take immediate steps not only to put the country in a more thorough state of defense but also to exert all its power and employ all its resources to bring the Government of the German Empire to terms and end the war.

What this will involve is clear. It will involve the utmost practicable cooperation in counsel and action with the governments now at war with Germany, and, as incident to that, the extension to those governments of the most liberal financial credits, in order that our resources may so far as possible be added to theirs. It will involve the organization and mobilization of all the material resources of the country to supply the materials of war and serve the incidental needs of the nation in the most abundant and yet the most economical and efficient way possible. It will involve the immediate full equipment of the navy in all respects but particularly in supplying it with the best means of dealing with the enemy's submarines. It will involve the immediate addition to the armed forces of the United States already provided for by law in case of war at least five hundred thousand men, who should, in my opinion, be chosen upon the principle of universal liability to service, and also the authorization of

subsequent additional increments of equal force so soon as they may be needed and can be handled in training. It will involve also, of course, the granting of adequate credits to the Government, sustained, I hope, so far as they can equitably be sustained by the present generation, by well conceived taxation.

I say sustained so far as may be equitable by taxation because it seems to me that it would be most unwise to base the credits which will now be necessary entirely on money borrowed. It is our duty, I most respectfully urge, to protect our people so far as we may against the very serious hardships and evils which would be likely to arise out of the inflation which would be produced by vast loans.

In carrying out the measures by which these things are to be accomplished we should keep constantly in mind the wisdom of interfering as little as possible in our own preparation and in the equipment of our own military forces with the duty,—for it will be a very practical duty,—of supplying the nations already at war with Germany with the materials which they can obtain only from us or by our assistance. They are in the field and we should help them in every way to be effective there.

I shall take the liberty of suggesting, through the several executive departments of the Government, for the consideration of your committees, measures for the accomplishment of the several objects I have mentioned. I hope that it will be your pleasure to deal with them as having been framed after very careful thought by the branch of the Government upon which the responsibility of conducting the war and safeguarding the nation will most directly fall.

While we do these things, these deeply momentous things, let us be very clear, and make very clear to all the world what our motives and our objects are. My own thought has not been driven from its habitual and normal course by the unhappy events of the last two months, and I do not believe that the thought of the nation has been altered or clouded by them. I have exactly the same things in mind now that I had in mind when I addressed the Senate on the twenty-second of January last; the same that I had in mind when I addressed the Congress on the third of February and on the twenty-sixth of February. Our object now, as then, is to vindicate the principles of peace and justice in the life of the world as against selfish and autocratic power and to set up amongst the really free and self-governed peoples of the world such a concert of purpose and of action as will henceforth ensure the observance of those principles. Neutrality is no longer feasible or desirable where the peace of the world is involved and the freedom of its peoples, and the menace to that peace and freedom lies in the existence of autocratic governments backed by organized force which is controlled wholly by their will, not by the will of their people. We

have seen the last of neutrality in such circumstances. We are at the beginning of an age in which it will be insisted that the same standards of conduct and of responsibility for wrong done shall be observed among nations and their governments that are observed among the individual citizens of civilized states.

We have no quarrel with the German people. We have no feeling towards them but one of sympathy and friendship. It was not upon their impulse that their government acted in entering this war. It was not with their previous knowledge or approval. It was a war determined upon as wars used to be determined upon in the old, unhappy days when peoples were nowhere consulted by their rulers and wars were provoked and waged in the interest of dynasties or of little groups of ambitious men who were accustomed to use their fellow men as pawns and tools. Self-governed nations do not fill their neighbour states with spies or set the course of intrigue to bring about some critical posture of affairs which will give them an opportunity to strike and make conquest. Such designs can be successfully worked out only under cover and where no one has the right to ask questions. Cunningly contrived plans of deception or aggression, carried, it may be, from generation to generation, can be worked out and kept from the light only within the privacy of courts or behind the carefully guarded confidences of a narrow and privileged class. They are happily impossible where public opinion commands and insists upon full information concerning all the nation's affairs.

A steadfast concert for peace can never be maintained except by a partnership of democratic nations. No autocratic government could be trusted to keep faith within it or observe its covenants. It must be a league of honour, a partnership of opinion. Intrigue would eat its vitals away; the plottings of inner circles who could plan what they would and render account to no one would be a corruption seated at its very heart. Only free peoples can hold their purpose and their honour steady to a common end and prefer the interests of mankind to any narrow interest of their own.

Does not every American feel that assurance has been added to our hope for the future peace of the world by the wonderful and heartening things that have been happening within the last few weeks in Russia? Russia was known by those who knew it best to have been always in fact democratic at heart, in all the vital habits of her thought, in all the intimate relationships of her people that spoke their natural instinct, their habitual attitude towards life. The autocracy that crowned the summit of her political structure, long as it had stood and terrible as was the reality of its power, was not in fact Russian in origin, character, or purpose; and now it has been shaken off and the great, generous Russian people have been added in all their naive majesty and might to the forces that are fighting for

freedom in the world, for justice, and for peace. Here is a fit partner for a League of Honour.

One of the things that has served to convince us that the Prussian autocracy was not and could never be our friend is that from the very outset of the present war it has filled our unsuspecting communities and even our offices of government with spies and set criminal intrigues everywhere afoot against our national unity of counsel, our peace within and without, our industries and our commerce. Indeed it is now evident that its spies were here even before the war began; and it is unhappily not a matter of conjecture but a fact proved in our courts of justice that the intrigues which have more than once come perilously near to disturbing the peace and dislocating the industries of the country have been carried on at the instigation, with the support, and even under the personal direction of official agents of the Imperial Government accredited to the Government of the United States. Even in checking these things and trying to extirpate them we have sought to put the most generous interpretation possible upon them because we knew that their source lay, not in any hostile feeling or purpose of the German people towards us (who were, no doubt as ignorant of them as we ourselves were), but only in the selfish designs of a Government that did what it pleased and told its people nothing. But they have played their part in serving to convince us at last that that Government entertains no real friendship for us and means to act against our peace and security at its convenience. That it means to stir up enemies against us at our very doors the intercepted note to the German Minister at Mexico City is eloquent evidence.

We are accepting this challenge of hostile purpose because we know that in such a government, following such methods, we can never have a friend; and that in the presence of its organized power, always lying in wait to accomplish we know not what purpose, there can be no assured security for the democratic governments of the world. We are now about to accept gage of battle with this natural foe to liberty and shall, if necessary, spend the whole force of the nation to check and nullify its pretensions and its power. We are glad, now that we see the facts with no veil of false pretence about them, to fight thus for the ultimate peace of the world and for the liberation of its peoples, the German peoples included: for the rights of nations great and small and the privilege of men everywhere to choose their way of life and of obedience. The world must be made safe for democracy. Its peace must be planted upon the tested foundations of political liberty. We have no selfish ends to serve. We desire no conquest, no dominion. We seek no indemnities for ourselves, no material compensation for the sacrifices we shall freely make. We are but one

of the champions of the rights of mankind. We shall be satisfied when those rights have been made as secure as the faith and the freedom of nations can make them.

Just because we fight without rancour and without selfish object, seeking nothing for ourselves but what we shall wish to share with all free peoples, we shall, I feel confident, conduct our operations as belligerents without passion and ourselves observe with proud punctilio the principles of right and of fair play we profess to be fighting for.

I have said nothing of the governments allied with the Imperial Government of Germany because they have not made war upon us or challenged us to defend our right and our honour. The Austro-Hungarian Government has, indeed, avowed its unqualified endorsement and acceptance of the reckless and lawless submarine warfare adopted now without disguise by the Imperial German Government, and it has therefore not been possible for this Government to receive Count Tarnowski, the Ambassador recently accredited to this Government by the Imperial and Royal Government of Austria-Hungary; but that Government has not actually engaged in warfare against citizens of the United States on the seas, and I take the liberty, for the present at least, of postponing a discussion of our relations with the authorities at Vienna. We enter this war only where we are clearly forced into it because there are no other means of defending our rights.

It will be all the easier for us to conduct ourselves as belligerents in a high spirit of right and fairness because we act without animus, not in enmity towards a people or with the desire to bring any injury or disadvantage upon them, but only in armed opposition to an irresponsible government which has thrown aside all considerations of humanity and of right and is running amuck. We are, let me say again, the sincere friends of the German people, and shall desire nothing so much as the early re-establishment of intimate relations of mutual advantage between us,—however hard it may be for them, for the time being, to believe that this is spoken from our hearts. We have borne with their present government through all these bitter months because of that friendship,—exercising a patience and forbearance which would otherwise have been impossible. We shall, happily, still have an opportunity to prove that friendship in our daily attitude and actions towards the millions of men and women of German birth and native sympathy who live amongst us and share our life, and we shall be proud to prove it towards all who are in fact loyal to their neighbours and to the Government in the hour of test. They are, most of them, as true and loyal Americans as if they had never known any other fealty or allegiance. They will be prompt to stand with us in rebuking and

restraining the few who may be of a different mind and purpose. If there should be disloyalty, it will be dealt with with a firm hand of stern repression; but, if it lifts its head at all, it will lift it only here and there and without countenance except from a lawless and malignant few.

It is a distressing and oppressive duty, Gentlemen of the Congress, which I have performed in thus addressing you. There are, it may be, many months of fiery trial and sacrifice ahead of us. It is a fearful thing to lead this great peaceful people into war, into the most terrible and disastrous of all wars, civilization itself seeming to be in the balance. But the right is more precious than peace, and we shall fight for the things which we have always carried nearest our hearts,—for democracy, for the right of those who submit to authority to have a voice in their own governments, for the rights and liberties of small nations, for a universal dominion of right by such a concert of free peoples as shall bring peace and safety to all nations and make the world itself at last free. To such a task we can dedicate our lives and our fortunes, everything that we are and everything that we have, with the pride of those who know that the day has come when America is privileged to spend her blood and her might for the principles that gave her birth and happiness and the peace which she has treasured. God helping her, she can do no other.

THE INTERCEPTED GERMAN NOTE TO MEXICO.

On February 28 the Associated Press published the following authentic copy of a note from the German foreign minister to the German minister in Mexico. It had been in the possession of our State Department for some time prior to the severance of diplomatic relations with Germany:

"BERLIN, *January 19, 1917.*

"On the 1st of February we intend to begin submarine warfare unrestricted. In spite of this, it is our intention to endeavor to keep neutral the United States of America.

"If this attempt is not successful, we propose an alliance on the following basis with Mexico: That we shall make war together and together make peace. We shall give general financial support; and it is understood that Mexico is to reconquer the lost territory in New Mexico, Texas, and Arizona. The details are left to you for settlement.

"You are instructed to inform the President of Mexico of the above in the greatest confidence as soon as it is certain that there will be an outbreak of war with the United States, and suggest that the President of Mexico, on his own initiative, should communicate with Japan, suggesting adherence at once to this plan. At the same time offer to mediate between Germany and Japan.

"Please call to the attention of the President of Mexico that the employment of ruthless warfare now promises to compel England to make peace in a few months.

"ZIMMERMANN."

RESOLUTION DECLARING THAT A STATE OF WAR EXISTS.

[PUBLIC RESOLUTION—NO. 1—65TH CONGRESS.]

[S. J. Res. 1.]

SIXTY-FIFTH CONGRESS OF THE UNITED STATES OF AMERICA;

At the First Session,

Begun and held at the City of Washington on Monday, the second day of April, one thousand nine hundred and seventeen.

Joint Resolution Declaring that a state of war exists between the Imperial German Government and the Government and the people of the United States and making provision to prosecute the same.

Whereas the Imperial German Government has committed repeated acts of war against the Government and the people of the United States of America: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war between the United States and the Imperial German Government which has thus been thrust upon the United States is hereby formally declared; and that the President be, and he is hereby, authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial German Government; and to bring the conflict to a successful termination all of the resources of the country are hereby pledged by the Congress of the United States.

CHAMP CLARK,
Speaker of the House of Representatives.

THOS. R. MARSHALL,
Vice President of the United States and President of the Senate.

Approved, April 6, 1917,
WOODROW WILSON.

PRESIDENT PROCLAIMS WAR BETWEEN UNITED STATES AND GERMANY CALLING CITIZENS TO COLORS.

The President's war proclamation is as follows:

BY THE PRESIDENT OF THE UNITED STATES—A PROCLAMATION.

Whereas the Congress of the United States in the exercise of the constitutional authority vested in them have resolved, by joint resolution of the Senate and House of Representatives, bearing date this day, "That the state of war between the United States and the imperial German Government that has * * * been thrust upon the United States is hereby formally declared":

Whereas it is provided by section 4067 of the Revised Statutes as follows:

Whereas there is declared a war between the United States and any foreign nation or Government, or any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or Government, and the President makes public proclamation of the event, all natives, citizens, denizens or subjects of the hostile nation or Government, being males of the age of 14 years and upward who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies.

The President is authorized, in any such event, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject, and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any other regulations which are found necessary in the premises and for the public safety:

Whereas, by section 4068, 4069, and 4070, of the Revised Statutes, further provision is made relative to alien enemies:

Now, therefore, I, Woodrow Wilson, President of the United States of America, do hereby proclaim to all whom it may concern, that a state of war exists between the United States and the imperial German Government; and I do specially direct all officers, civil or

military, of the United States, that they exercise vigilance and zeal in the discharge of the duties incident to such a state of war; and I do, moreover, earnestly appeal to all American citizens that they, in loyal devotion to their country, dedicated from its foundation to the principles of liberty and justice, uphold the laws of the land, and give undivided and willing support to those measures which may be adopted by the constitutional authorities in prosecuting the war to a successful issue and in obtaining a secure and just peace.

And, acting under and by virtue of the authority vested in me by the Constitution of the United States and the said sections of the Revised Statutes, I do hereby further proclaim and direct that the conduct to be observed on the part of the United States toward all natives, citizens, denizens or subjects of Germany, being males of the age of 14 years and upward, who shall be within the United States and not actually naturalized, who for the purpose of this proclamation and under such sections of the Revised Statutes are termed alien enemies, shall be as follows:

All alien enemies are enjoined to preserve the peace towards the United States and to refrain from crime against the public safety, and from violating the laws of the United States and of the States and Territories thereof, and to refrain from actual hostility or giving information, aid or comfort to the enemies of the United States, and to comply strictly with the regulations which are hereby or which may be from time to time promulgated by the President; and so long as they shall conduct themselves in accordance with law they shall be undisturbed in the peaceful pursuit of their lives and occupations, and be accorded the consideration due to all peaceful and law-abiding persons, except so far as restrictions may be necessary for their own protection and for the safety of the United States; and towards such alien enemies as conduct themselves in accordance with law, all citizens of the United States are enjoined to preserve the peace and to treat them with all such friendliness as may be compatible with loyalty and allegiance to the United States.

And all alien enemies who fail to conduct themselves as so enjoined, in addition to all other penalties prescribed by law, shall be liable to restraint or to give security or to remove and depart from the United States in the manner prescribed by sections 4069 and 4070 of the Revised Statutes, and as prescribed in the regulations duly promulgated by the President:

And pursuant to the authority vested in me, I hereby declare and establish the following regulations, which I find necessary in the premises and for the public safety:

1. An alien enemy shall not have in his possession, at any time or place, any firearm, weapon, or implement of war, or component

part thereof, ammunition, Maxim or other silencer, bomb or explosive or material used in the manufacture of explosives.

2. An alien enemy shall not have in his possession, at any time or place, or use or operate any aircraft or wireless apparatus, or any form of signaling device, or any form of cipher code, or any paper, document, or book written or printed in cipher or in which there may be invisible writing.

3. All property found in the possession of an alien enemy in violation of the foregoing regulations shall be subject to seizure by the United States.

4. An alien enemy shall not approach or be found within one-half of a mile of any Federal or State fort, camp, arsenal, aircraft station, Government or naval vessel, navy yard, factory, or workshop for the manufacture of munitions of war or of any products for the use of the Army or Navy.

5. An alien enemy shall not write, print, or publish any attack or threats against the Government or Congress of the United States, or either branch thereof, or against the measures or policy of the United States, or against the person or property of any person in the military, naval, or civil service of the United States, or of the States or Territories, or of the District of Columbia, or of the municipal governments therein.

6. An alien enemy shall not commit or abet any hostile act against the United States, or give information, aid, or comfort to its enemies.

7. An alien enemy shall not reside in, or continue to reside in, to remain in, or enter any locality which the President may from time to time designate by executive order as a prohibited area in which residence, by an alien enemy shall be found by him to constitute a danger to the public peace and safety of the United States, except by permit from the President, and except under such limitations or restrictions as the President may prescribe.

8. An alien enemy whom the President shall have reasonable cause to believe to be aiding or about to aid the enemy, or to be at large to the danger of the public peace or safety of the United States, or to have violated or to be about to violate any of these regulations, shall remove to any location designated by the President by executive order, and shall not remove therefrom without a permit, or shall depart from the United States if so required by the President.

9. No alien enemy shall depart from the United States until he shall have received such permit as the President shall prescribe, or except under order of a court, judge, or justice under sections 4069 and 4070 of the Revised Statutes.

10. No alien enemy shall land in or enter the United States, except under such restrictions and at such places as the President may prescribe.

11. If necessary to prevent violations of these regulations, all alien enemies will be obliged to register.

12. An alien enemy whom there may be reasonable cause to believe to be aiding or about to aid the enemy, or who may be at large to the danger of the public peace or safety, or who violates or attempts to violate, or of whom there is reasonable ground to believe that he is about to violate any regulation duly promulgated by the President, or any criminal law of the United States, or of the States or Territories thereof, will be subject to summary arrest by the United States marshal or his deputy or such other officer as the President shall designate, and to confinement in such penitentiary, prison, jail, military camp, or other place of detention as may be directed by the President.

This proclamation and the regulations herein contained shall extend and apply to all land and water, continental or insular, in any way within the jurisdiction of the United States.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 6th day of April, in the year of our Lord 1917, and of the independence of the United States the one hundred and forty-first.

[SEAL.] WOODROW WILSON.

By the President:

ROBERT LANSING,

Secretary of State.

PROCLAMATION BY THE PRESIDENT TO THE PEOPLE.

An Appeal to the Entire Citizenship for Efficient Cooperation to Guarantee the Maximum Service to Bring the War to a Speedy and Successful Termination.

THE WHITE HOUSE, *April 15, 1917.*

MY FELLOW COUNTRYMEN:

The entrance of our own beloved country into the grim and terrible war for democracy and human rights, which has shaken the world, creates so many problems of national life and action which call for immediate consideration and settlement that I hope you will permit me to address to you a few words of earnest counsel and appeal with regard to them.

We are rapidly putting our Navy upon an effective war footing and are about to create and equip a great army, but these are the simplest parts of the great task to which we have addressed ourselves. There is not a single selfish element, so far as I can see, in the cause we are fighting for. We are fighting for what we believe and wish to be the rights of mankind and for the future peace and security of the world. To do this great thing worthily and successfully we must devote ourselves to the service without regard to profit or material advantage and with an energy and intelligence that will rise to the level of the enterprise itself. We must realize to the full how great the task is and how many things, how many kinds and elements of capacity and service and self-sacrifice it involves.

These, then, are the things we must do, and do well, besides fighting—the things without which mere fighting would be fruitless:

We must supply abundant food for ourselves and for our armies and our seamen, not only, but also for a large part of the nations with whom we have now made common cause, in whose support and by whose sides we shall be fighting.

We must supply ships by the hundreds out of our shipyards to carry to the other side of the sea, submarines or no submarines, what will every day be needed there, and abundant materials out of our fields and our mines and our factories with which not only to clothe and equip our own forces on land and sea, but also to clothe and support our people, for whom the gallant fellows under arms can no longer work; to help clothe and equip the armies with which we

are cooperating in Europe, and to keep the looms and manufactories there in raw material; coal to keep the fires going in ships at sea and in the furnaces of hundreds of factories across the sea; steel out of which to make arms and ammunition both here and there; rails for worn-out railways back of the fighting fronts; locomotives and rolling stock to take the place of those every day going to pieces; mules, horses, cattle for labor and for military service; everything with which the people of England and France and Italy and Russia have usually supplied themselves, but can not now afford the men, the materials, or the machinery to make.

It is evident to every thinking man that our industries, on the farms, in the shipyards, in the mines, in the factories, must be made more prolific and more efficient than ever, and that they must be more economically managed and better adapted to the particular requirements of our task than they have been; and what I want to say is that the men and the women who devote their thought and their energy to these things will be serving the country and conducting the fight for peace and freedom just as truly and just as effectively as the men on the battlefield or in the trenches. The industrial forces of the country, men and women alike, will be a great national, a great international service army—a notable and honored host engaged in the service of the Nation and the world, the efficient friends and saviors of free men everywhere. Thousands, nay, hundreds of thousands, of men otherwise liable to military service will of right and of necessity be excused from that service and assigned to the fundamental, sustaining work of the fields and factories and mines, and they will be as much part of the great patriotic forces of the Nation as the men under fire.

I take the liberty, therefore, of addressing this word to the farmers of the country and to all who work on the farms: The supreme need of our own Nation and of the nations with which we are cooperating is an abundance of supplies, and especially of foodstuffs. The importance of an adequate food supply, especially for the present year, is superlative. Without abundant food, alike for the armies and the peoples now at war, the whole great enterprise upon which we have embarked will break down and fail. The world's food reserves are low. Not only during the present emergency, but for some time after peace shall have come, both our own people and a large proportion of the people of Europe must rely upon the harvests in America.

Upon the farmers of this country, therefore, in large measure rests the fate of the war and the fate of the nations. May the Nation not count upon them to omit no step that will increase the production of their land or that will bring about the most effectual cooperation in the sale and distribution of their products? The time is short. It

is of the most imperative importance that everything possible be done, and done immediately, to make sure of large harvests. I call upon young men and old alike and upon the able-bodied boys of the land to accept and act upon this duty—to turn in hosts to the farms and make certain that no pains and no labor is lacking in this great matter.

I particularly appeal to the farmers of the South to plant abundant foodstuffs, as well as cotton. They can show their patriotism in no better or more convincing way than by resisting the great temptation of the present price of cotton and helping, helping upon a great scale, to feed the Nation and the peoples everywhere who are fighting for their liberties and for our own. The variety of their crops will be the visible measure of their comprehension of their national duty.

The Government of the United States and the governments of the several States stand ready to cooperate. They will do everything possible to assist farmers in securing an adequate supply of seed, an adequate force of laborers when they are most needed, at harvest time, and the means of expediting shipments of fertilizers and farm machinery, as well as of the crops themselves when harvested. The course of trade shall be as unhampered as it is possible to make it, and there shall be no unwarranted manipulation of the Nation's food supply by those who handle it on its way to the consumer. This is our opportunity to demonstrate the efficiency of a great democracy, and we shall not fall short of it.

This let me say to the middlemen of every sort, whether they are handling our foodstuffs or our raw materials of manufacture or the products of our mills and factories: The eyes of the country will be especially upon you. This is your opportunity for signal service, efficient and disinterested. The country expects you, as it expects all others, to forego unusual profits, to organize and expedite shipments of supplies of every kind, but especially of food, with an eye to the service you are rendering and in the spirit of those who enlist in the ranks, for their people, not for themselves. I shall confidently expect you to deserve and win the confidence of people of every sort and station.

To the men who run the railways of the country, whether they be managers or operative employees, let me say that the railways are the arteries of the Nation's life and that upon them rests the immense responsibility of seeing to it that those arteries suffer no obstruction of any kind, no inefficiency or slackened power. To the merchant let me suggest the motto, "Small profits and quick service," and to the shipbuilder the thought that the life of the war depends upon him. The food and the war supplies must be carried across the seas, no matter how many ships are sent to the bottom. The places of those that go down must be supplied, and supplied at

once. To the miner let me say that he stands where the farmer does; the work of the world waits on him. If he slackens or fails, armies and statesmen are helpless. He also is enlisted in the great service army. The manufacturer does not need to be told, I hope, that the Nation looks to him to speed and perfect every process; and I want only to remind his employees that their service is absolutely indispensable and is counted on by every man who loves the country and its liberties.

Let me suggest, also, that every one who creates or cultivates a garden helps, and helps greatly, to solve the problem of the feeding of the nations; and that every housewife who practices strict economy puts herself in the ranks of those who serve the Nation. This is the time for America to correct her unpardonable fault of wastefulness and extravagance. Let every man and every woman assume the duty of careful, provident use and expenditure as a public duty, as a dictate of patriotism which no one can now expect ever to be excused or forgiven for ignoring.

In the hope that this statement of the needs of the Nation and of the world in this hour of supreme crisis may stimulate those to whom it comes and remind all who need reminder of the solemn duties of a time such as the world has never seen before, I beg that all editors and publishers everywhere will give as prominent publication and as wide circulation as possible to this appeal. I venture to suggest, also, to all advertising agencies that they would perhaps render a very substantial and timely service to the country if they would give it widespread repetition. And I hope that clergymen will not think the theme of it an unworthy or inappropriate subject of comment and homily from their pulpits.

The supreme test of the Nation has come. We must all speak, act, and serve together!

WOODROW WILSON.

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